

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**IN RE: NATIONAL PRESCRIPTION  
OPIATE LITIGATION**

This document relates to:

*The County of Summit, Ohio, et al. v.  
Purdue Pharma L.P., et al.*  
Case No. 1:18-op-45090 (N.D. Ohio)

*The County of Cuyahoga, Ohio, et al. v.  
Purdue Pharma L.P., et al.*  
Case No. 1:17-op-45004 (N.D. Ohio)

**MDL No. 2804  
Case No. 17-md-2804  
Judge Dan Aaron Polster**

**DECLARATION OF KELLY A. MOORE IN SUPPORT OF  
PHARMACY DEFENDANTS' MOTION FOR  
SUMMARY JUDGMENT ON CAUSATION**

I, Kelly A. Moore, declare as follows:

1. I am a partner at the law firm of Morgan, Lewis & Bockius LLP and counsel to Defendant Rite Aid of Maryland, Inc., d/b/a Mid-Atlantic Customer Support Center.
2. I make this declaration to place before the Court certain materials relied on in Pharmacy Defendants' Motion for Summary Judgment on Causation.
3. Attached as **Exhibit A** is a true and correct copy of excerpts of the expert report of Craig McCann, which was submitted on behalf of the Plaintiffs in the above-captioned case.
4. Attached as **Exhibit B** is a true and correct copy of excerpts of the deposition of Craig McCann, which was held on May 9-10, 2019 in the above-captioned case.
5. Attached as **Exhibit C** is a true and correct copy of excerpts of the deposition of James Rafalski, which was held on May 13-14, 2019 in the above-captioned case.
6. Attached as **Exhibit D** is a true and correct copy of excerpts of the deposition of Joseph Rannazzisi, which was held on April 26, 2019 in the above-captioned case.

7. Attached as **Exhibit E** is a true and correct copy of excerpts of the deposition of Thomas Prevoznik, which was held on April 17, 2019 in the above-captioned case.

8. Attached as **Exhibit F** is a true and correct copy of excerpts of the deposition of Kyle Wright, which was held on February 28, 2019 in the above-captioned case.

9. Attached as **Exhibit G** is a true and correct copy of Exhibit B to Plaintiff's Response to Discovery Ruling No. 12 as Amended.

10. Attached as **Exhibit H** is a true and correct copy of excerpts of the expert report of David Cutler, which was submitted on behalf of the Plaintiffs in the above-captioned case.

11. I declare under penalty of perjury that the foregoing is true and correct.

Executed this 28th day of June, 2019.

/s/ Kelly A. Moore

Kelly A. Moore  
MORGAN, LEWIS & BOCKIUS LLP  
101 Park Avenue  
New York, NY 10178  
Phone: (212) 309-6612  
Fax: (212) 309-6001  
kelly.moore@morganlewis.com

Elisa P. McEnroe  
MORGAN, LEWIS & BOCKIUS LLP  
1701 Market Street  
Philadelphia, PA 19103  
Phone: (215) 963-5917  
Fax: (215) 963-5001  
elisa.mcenroe@morganlewis.com

# **Exhibit A**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

IN RE NATIONAL	:	MDL No. 2804
PRESCRIPTION OPIATE	:	CASE NO. 17-MD-2804
LITIGATION	:	(DAP)
	:	

EXPERT REPORT OF CRAIG J. MCCANN, PH.D., CFA  
March 25, 2019

## **IX. Transaction Analysis**

130. I implemented various approaches to identify transactions meeting specified criteria using the non-public ARCOS Data from 2006 to 2014, supplemented with Defendant transaction data where the ARCOS Data is obviously missing transactions that are included in the transactions produced by Defendants in discovery and to the extent I have Defendant transaction data for the periods before 2006 and after 2014. I calculated the results separately for each of twelve controlled substance drug codes.<sup>54</sup>

### **A. Maximum Monthly, Trailing Six-month Threshold**

131. Under the first approach, I identify transactions that cause the number of dosage units shipped by a Distributor to a Pharmacy in a calendar month to exceed the highest number of dosage units shipped by the Distributor to the Pharmacy in any one of the six preceding calendar months. For example, if the number of dosage units containing hydrocodone shipped from a Distributor to a Pharmacy in February, March, April, May, June, and July were 5,000; 10,000; 7,000; 8,000; 9,000; and 9,500 respectively, a requested transaction in August would be flagged if it would cause the number of dosage units containing hydrocodone the Distributor shipped to the Pharmacy to exceed 10,000. Any reported transactions containing hydrocodone on that date and all reported transactions containing hydrocodone from that Distributor to that Pharmacy thereafter are flagged.

132. In this approach and the others implemented below I have been asked by Counsel to assume that the Distributor did not effectively investigate

---

<sup>54</sup> I do not analyze transactions in two treatment drugs: buprenorphine and methadone.

Table 25 Trailing Six-Month Maximum Threshold Flagged Transactions, Summit County, OH 1996-2018

# of Flagged Transactions	Oxycodone	Hydrocodone	Morphine	Hydromorphone	Oxymorphone	Other	Total
AmerisourceBergen	77,175	52,681	21,289	6,341	2,830	10,804	171,120
Anda, Inc	690	1,302	121	2	0	188	2,303
Cardinal Health	111,200	50,300	24,731	5,707	2,638	13,065	207,641
CVS	n/a	45,927	n/a	n/a	n/a	2,624	48,551
Discount Drug Mart	n/a	8,500	0	n/a	n/a	720	9,220
H. D. Smith	60	125	0	n/a	0	0	185
HBC Service Co	2,682	26,651	0	0	0	703	30,036
Henry Schein Inc	n/a	n/a	n/a	n/a	n/a	n/a	n/a
McKesson Corp	96,172	64,409	20,338	5,156	4,116	6,280	196,471
Miami-Luken	2,999	1,308	391	0	236	0	4,934
Prescription Supply	16	4	0	0	0	0	20
Rite Aid	n/a	10,953	n/a	n/a	n/a	898	11,851
Walgreens	39,284	47,489	11,596	3,050	0	2,669	104,088
Wal-Mart	9,010	15,052	777	173	0	393	25,405
<b>Total</b>	<b>339,288</b>	<b>324,701</b>	<b>79,243</b>	<b>20,429</b>	<b>9,820</b>	<b>38,344</b>	<b>811,825</b>

### B. Twice Trailing Twelve-Month Average Pharmacy Dosage Units

136. I identify transactions that cause the number of dosage units shipped by a Distributor to a Pharmacy in a calendar month to exceed twice the trailing twelve-month average dosage units to retail and chain pharmacies served by the Distributor. I have been asked by Counsel to assume that the Distributor did not effectively investigate the flagged transactions and so every subsequent transaction of that drug code is also flagged because the Distributor had an unfulfilled obligation to detect and investigate the first flagged transaction.

Table 27 Twice Trailing Twelve-Month Average Pharmacy Dosage Units Threshold Flagged Transactions, Summit County, OH 1996-2018

# of Flagged Transactions	Oxycodone	Hydrocodone	Morphine	Hydromorphone	Oxymorphone	Other	Total
AmerisourceBergen	41,408	48,241	17,443	6,140	3,737	22,741	139,710
Anda, Inc	1,081	1,245	221	22	0	325	2,894
Cardinal Health	84,118	48,828	27,703	7,966	4,458	35,525	208,598
CVS	n/a	27,081	n/a	n/a	n/a	1,443	28,524
Discount Drug Mart	n/a	7,405	0	n/a	n/a	533	7,938
H. D. Smith	0	105	0	n/a	0	23	128
HBC Service Co	2,025	16,692	200	28	22	491	19,458
Henry Schein Inc	n/a	n/a	n/a	n/a	n/a	n/a	n/a
McKesson Corp	64,582	62,291	20,257	6,303	5,538	24,320	183,291
Miami-Luken	2,939	1,222	452	88	304	388	5,393
Prescription Supply	0	4	0	1	0	0	5
Rite Aid	n/a	8,235	n/a	n/a	n/a	376	8,611
Walgreens	15,942	28,076	10,431	3,488	44	9,018	66,999
Wal-Mart	2,657	695	729	199	27	622	4,929
<b>Total</b>	<b>214,752</b>	<b>250,120</b>	<b>77,436</b>	<b>24,235</b>	<b>14,130</b>	<b>95,805</b>	<b>676,478</b>

### C. Three Times Trailing Twelve-Month Average Pharmacy Dosage Units

140. I identify transactions that cause the number of dosage units shipped by a Distributor to a Pharmacy in a calendar month to exceed three times the trailing twelve-month average dosage units to retail and chain pharmacies served by the Distributor. I have been asked by Counsel to assume that the Distributor did not effectively investigate the flagged transactions and so every subsequent transaction of that drug code is also flagged because the Distributor had an unfulfilled obligation to detect and investigate the first flagged transaction.

Table 29 Three Times Trailing Twelve-Month Average Pharmacy Dosage Units Threshold Flagged Transactions, Summit County, OH 1996-2018

# of Flagged Transactions	Oxycodone	Hydrocodone	Morphine	Hydromorphone	Oxymorphone	Other	Total
AmerisourceBergen	26,024	40,096	10,643	4,823	3,051	13,724	98,361
Anda, Inc	981	993	177	21	0	295	2,467
Cardinal Health	49,733	42,267	21,073	6,408	2,295	24,609	146,385
CVS	n/a	17,930	n/a	n/a	n/a	370	18,300
Discount Drug Mart	n/a	7,278	0	n/a	n/a	403	7,681
H. D. Smith	0	91	0	n/a	0	23	114
HBC Service Co	857	8,099	103	0	13	114	9,186
Henry Schein Inc	n/a	n/a	n/a	n/a	n/a	n/a	n/a
McKesson Corp	36,410	48,607	16,642	4,721	4,198	16,232	126,810
Miami-Luken	0	1,111	0	79	243	331	1,764
Prescription Supply	0	4	0	0	0	0	4
Rite Aid	n/a	2,062	n/a	n/a	n/a	129	2,191
Walgreens	0	6,712	6,788	2,491	44	4,516	20,551
Wal-Mart	1,403	0	713	173	0	131	2,420
<b>Total</b>	<b>115,408</b>	<b>175,250</b>	<b>56,139</b>	<b>18,716</b>	<b>9,844</b>	<b>60,877</b>	<b>436,234</b>

#### D. Maximum 8,000 Dosage Units Monthly

144. I identify transactions that cause the number of dosage units shipped by a Distributor to a Pharmacy in a calendar month to exceed 8,000 dosage units. I have been asked by Counsel to assume that the Distributor did not effectively investigate the flagged transactions and so every subsequent transaction of that drug code is also flagged because the Distributor had an unfulfilled obligation to detect and investigate the first flagged transaction.

145. Figure 17 illustrates total opioid shipments into Cuyahoga County from 1996 to 2018 from ARCOS Data for 2006 to 2014 and, to the extent I have Defendant transaction data for the periods before 2006 and after



Table 31 Maximum 8,000 Dosage Units Monthly Threshold Flagged Transactions, Summit County, OH 1996-2018

# of Flagged Transactions	Oxycodone	Hydrocodone	Morphine	Hydromorphone	Oxymorphone	Other	Total
AmerisourceBergen	68,640	50,724	3,831	1,071	2,265	0	126,531
Anda, Inc	811	25	109	0	0	0	945
Cardinal Health	80,037	31,077	3,214	927	748	570	116,573
CVS	n/a	46,272	n/a	n/a	n/a	0	46,272
Discount Drug Mart	n/a	6,299	0	n/a	n/a	0	6,299
H. D. Smith	0	0	0	n/a	0	0	0
HBC Service Co	2,107	25,874	0	0	0	0	27,981
Henry Schein Inc	n/a	n/a	n/a	n/a	n/a	n/a	n/a
McKesson Corp	78,847	44,278	4,036	1,050	0	0	128,211
Miami-Luken	3,180	0	0	0	0	0	3,180
Prescription Supply	0	0	0	0	0	0	0
Rite Aid	n/a	12,057	n/a	n/a	n/a	0	12,057
Walgreens	36,774	48,454	0	0	0	0	85,228
Wal-Mart	2,897	7,740	0	0	0	0	10,637
<b>Total</b>	<b>273,293</b>	<b>272,800</b>	<b>11,190</b>	<b>3,048</b>	<b>3,013</b>	<b>570</b>	<b>563,914</b>

### E. Maximum Daily Dosage Units

148. I identify transactions that cause the number of dosage units shipped by a Distributor to a Pharmacy in a day to exceed a number of dosage units that varies by drug type and within some drug types by formulation.<sup>55</sup> I have been asked by Counsel to assume that the Distributor did not effectively investigate the flagged transactions and so every subsequent transaction of that drug code is also flagged because the Distributor had an unfulfilled obligation to detect and investigate the first flagged transaction.

<sup>55</sup> Maximum Daily Dosage Units used as specified in CAH\_MDLPRIORPRO\_DEA07\_01384160

# **Exhibit B**

1           IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE NORTHERN DISTRICT OF OHIO  
3                   EASTERN DIVISION

4           IN RE:    NATIONAL                                 :   HON. DAN A.  
5                    PRESCRIPTION OPIATE                   :   POLSTER  
6                    LITIGATION                               :   MDL NO. 2804

7   :  
8           This document relates to:                       :   Case No. 17-MD-2804  
9   :

10           The County of Summit, Ohio                    :  
11           Ohio et al. v. Purdue Pharma                   :  
12           L.P., et al., Case No.                           :  
13           17-OP-45004                                       :  
14   :

15           The County of Cuyahoga v.                     :  
16           Purdue Pharma Purdue Pharma                   :  
17           L.P., et al., Case No.                           :  
18           18-OP-45090                                       :  
19   :

20   :  
21   :  
22   :  
23   :  
24   :  
25   :  
26   :  
27   :  
28   :  
29   :  
30   :  
31   :  
32   :  
33   :  
34   :  
35   :  
36   :  
37   :  
38   :  
39   :  
40   :  
41   :  
42   :  
43   :  
44   :  
45   :  
46   :  
47   :  
48   :  
49   :  
50   :  
51   :  
52   :  
53   :  
54   :  
55   :  
56   :  
57   :  
58   :  
59   :  
60   :  
61   :  
62   :  
63   :  
64   :  
65   :  
66   :  
67   :  
68   :  
69   :  
70   :  
71   :  
72   :  
73   :  
74   :  
75   :  
76   :  
77   :  
78   :  
79   :  
80   :  
81   :  
82   :  
83   :  
84   :  
85   :  
86   :  
87   :  
88   :  
89   :  
90   :  
91   :  
92   :  
93   :  
94   :  
95   :  
96   :  
97   :  
98   :  
99   :  
100    :  
101    :  
102    :  
103    :  
104    :  
105    :  
106    :  
107    :  
108    :  
109    :  
110    :  
111    :  
112    :  
113    :  
114    :  
115    :  
116    :  
117    :  
118    :  
119    :  
120    :  
121    :  
122    :  
123    :  
124    :  
125    :  
126    :  
127    :  
128    :  
129    :  
130    :  
131    :  
132    :  
133    :  
134    :  
135    :  
136    :  
137    :  
138    :  
139    :  
140    :  
141    :  
142    :  
143    :  
144    :  
145    :  
146    :  
147    :  
148    :  
149    :  
150    :  
151    :  
152    :  
153    :  
154    :  
155    :  
156    :  
157    :  
158    :  
159    :  
160    :  
161    :  
162    :  
163    :  
164    :  
165    :  
166    :  
167    :  
168    :  
169    :  
170    :  
171    :  
172    :  
173    :  
174    :  
175    :  
176    :  
177    :  
178    :  
179    :  
180    :  
181    :  
182    :  
183    :  
184    :  
185    :  
186    :  
187    :  
188    :  
189    :  
190    :  
191    :  
192    :  
193    :  
194    :  
195    :  
196    :  
197    :  
198    :  
199    :  
200    :  
201    :  
202    :  
203    :  
204    :  
205    :  
206    :  
207    :  
208    :  
209    :  
210    :  
211    :  
212    :  
213    :  
214    :  
215    :  
216    :  
217    :  
218    :  
219    :  
220    :  
221    :  
222    :  
223    :  
224    :  
225    :  
226    :  
227    :  
228    :  
229    :  
230    :  
231    :  
232    :  
233    :  
234    :  
235    :  
236    :  
237    :  
238    :  
239    :  
240    :  
241    :  
242    :  
243    :  
244    :  
245    :  
246    :  
247    :  
248    :  
249    :  
250    :  
251    :  
252    :  
253    :  
254    :  
255    :  
256    :  
257    :  
258    :  
259    :  
260    :  
261    :  
262    :  
263    :  
264    :  
265    :  
266    :  
267    :  
268    :  
269    :  
270    :  
271    :  
272    :  
273    :  
274    :  
275    :  
276    :  
277    :  
278    :  
279    :  
280    :  
281    :  
282    :  
283    :  
284    :  
285    :  
286    :  
287    :  
288    :  
289    :  
290    :  
291    :  
292    :  
293    :  
294    :  
295    :  
296    :  
297    :  
298    :  
299    :  
300    :  
301    :  
302    :  
303    :  
304    :  
305    :  
306    :  
307    :  
308    :  
309    :  
310    :  
311    :  
312    :  
313    :  
314    :  
315    :  
316    :  
317    :  
318    :  
319    :  
320    :  
321    :  
322    :  
323    :  
324    :  
325    :  
326    :  
327    :  
328    :  
329    :  
330    :  
331    :  
332    :  
333    :  
334    :  
335    :  
336    :  
337    :  
338    :  
339    :  
340    :  
341    :  
342    :  
343    :  
344    :  
345    :  
346    :  
347    :  
348    :  
349    :  
350    :  
351    :  
352    :  
353    :  
354    :  
355    :  
356    :  
357    :  
358    :  
359    :  
360    :  
361    :  
362    :  
363    :  
364    :  
365    :  
366    :  
367    :  
368    :  
369    :  
370    :  
371    :  
372    :  
373    :  
374    :  
375    :  
376    :  
377    :  
378    :  
379    :  
380    :  
381    :  
382    :  
383    :  
384    :  
385    :  
386    :  
387    :  
388    :  
389    :  
390    :  
391    :  
392    :  
393    :  
394    :  
395    :  
396    :  
397    :  
398    :  
399    :  
400    :  
401    :  
402    :  
403    :  
404    :  
405    :  
406    :  
407    :  
408    :  
409    :  
410    :  
411    :  
412    :  
413    :  
414    :  
415    :  
416    :  
417    :  
418    :  
419    :  
420    :  
421    :  
422    :  
423    :  
424    :  
425    :  
426    :  
427    :  
428    :  
429    :  
430    :  
431    :  
432    :  
433    :  
434    :  
435    :  
436    :  
437    :  
438    :  
439    :  
440    :  
441    :  
442    :  
443    :  
444    :  
445    :  
446    :  
447    :  
448    :  
449    :  
450    :  
451    :  
452    :  
453    :  
454    :  
455    :  
456    :  
457    :  
458    :  
459    :  
460    :  
461    :  
462    :  
463    :  
464    :  
465    :  
466    :  
467    :  
468    :  
469    :  
470    :  
471    :  
472    :  
473    :  
474    :  
475    :  
476    :  
477    :  
478    :  
479    :  
480    :  
481    :  
482    :  
483    :  
484    :  
485    :  
486    :  
487    :  
488    :  
489    :  
490    :  
491    :  
492    :  
493    :  
494    :  
495    :  
496    :  
497    :  
498    :  
499    :  
500    :  
501    :  
502    :  
503    :  
504    :  
505    :  
506    :  
507    :  
508    :  
509    :  
510    :  
511    :  
512    :  
513    :  
514    :  
515    :  
516    :  
517    :  
518    :  
519    :  
520    :  
521    :  
522    :  
523    :  
524    :  
525    :  
526    :  
527    :  
528    :  
529    :  
530    :  
531    :  
532    :  
533    :  
534    :  
535    :  
536    :  
537    :  
538    :  
539    :  
540    :  
541    :  
542    :  
543    :  
544    :  
545    :  
546    :  
547    :  
548    :  
549    :  
550    :  
551    :  
552    :  
553    :  
554    :  
555    :  
556    :  
557    :  
558    :  
559    :  
560    :  
561    :  
562    :  
563    :  
564    :  
565    :  
566    :  
567    :  
568    :  
569    :  
570    :  
571    :  
572    :  
573    :  
574    :  
575    :  
576    :  
577    :  
578    :  
579    :  
580    :  
581    :  
582    :  
583    :  
584    :  
585    :  
586    :  
587    :  
588    :  
589    :  
590    :  
591    :  
592    :  
593    :  
594    :  
595    :  
596    :  
597    :  
598    :  
599    :  
600    :  
601    :  
602    :  
603    :  
604    :  
605    :  
606    :  
607    :  
608    :  
609    :  
610    :  
611    :  
612    :  
613    :  
614    :  
615    :  
616    :  
617    :  
618    :  
619    :  
620    :  
621    :  
622    :  
623    :  
624    :  
625    :  
626    :  
627    :  
628    :  
629    :  
630    :  
631    :  
632    :  
633    :  
634    :  
635    :  
636    :  
637    :  
638    :  
639    :  
640    :  
641    :  
642    :  
643    :  
644    :  
645    :  
646    :  
647    :  
648    :  
649    :  
650    :  
651    :  
652    :  
653    :  
654    :  
655    :  
656    :  
657    :  
658    :  
659    :  
660    :  
661    :  
662    :  
663    :  
664    :  
665    :  
666    :  
667    :  
668    :  
669    :  
670    :  
671    :  
672    :  
673    :  
674    :  
675    :  
676    :  
677    :  
678    :  
679    :  
680    :  
681    :  
682    :  
683    :  
684    :  
685    :  
686    :  
687    :  
688    :  
689    :  
690    :  
691    :  
692    :  
693    :  
694    :  
695    :  
696    :  
697    :  
698    :  
699    :  
700    :  
701    :  
702    :  
703    :  
704    :  
705    :  
706    :  
707    :  
708    :  
709    :  
710    :  
711    :  
712    :  
713    :<

1 for that transaction and everything that  
2 follows it.

3 Q. Are you of the opinion that  
4 a flagged transaction means that that  
5 transaction represents a suspicious  
6 order?

7 A. That's way beyond my report,  
8 I think.

9 Q. Are you --

10 A. I'm sorry, I apologize. I  
11 don't have an opinion one way or the  
12 other. If -- if you inferred from my  
13 answer that I think it means that it is  
14 not a suspicious order, I didn't mean  
15 that. I just mean I don't have an  
16 opinion one way or the other.

17 Q. Understood. But just to  
18 make sure we are speaking the same  
19 language. It's fair to say that you are  
20 not taking the opinion that a flagged  
21 transaction is necessarily a suspicious  
22 order?

23 A. Correct.

24 Q. And it's also fair to say

1     that you are not saying that a flagged  
2     transaction is necessarily illegal or  
3     representative of illegal conduct?

4             A.     Correct.

5             Q.     It's also fair to say that a  
6     flagged transaction in your opinion does  
7     not necessarily mean there's been a  
8     failure of due diligence?

9             A.     Correct.

10            Q.     I want to take a look real  
11    quick specifically at this first  
12    approach, the maximum monthly trailing  
13    six-month threshold.

14                   And I want to -- your --  
15    your -- strike that.

16                   Your example here is very  
17    helpful for understanding it, so I  
18    appreciate that.

19                   But I want to get an  
20    understanding for, in practical terms,  
21    various of the defendants for different  
22    reasons may have gaps in their data. So  
23    for example, they may have been serving a  
24    pharmacy for a period of time, the

1           A.       Section 10 doesn't deal with  
2   individual shipments from distributors to  
3   pharmacies.  It's at a higher, more macro  
4   level, describing the shipments into  
5   Ohio, and into Cuyahoga and Summit, and  
6   how those exceed the two example  
7   baselines that I created.

8           Q.       Yes.  And earlier you -- you  
9   explained what the -- what you meant by  
10  excessive shipments.  And so I'm asking  
11  you, of these excessive shipments, which  
12  of them should distributors have not  
13  shipped to pharmacies?

14          A.       I don't have an opinion one  
15  way or another beyond what's expressed in  
16  Section 10 on that topic.

17          Q.       Were any of what you  
18  called -- call excessive shipments  
19  diverted?

20          A.       I don't know.

21          Q.       You can't point to any of  
22  your excessive shipments that were  
23  diverted?

24                   MR. MOUGEY:  Objection.

1           A.     No.

2           Q.     I just wanted to make sure I  
3     understood this very clearly. Are you in  
4     any way relying on the opinions of, or  
5     information from any consultants or  
6     experts that the lawyers have retained in  
7     this litigation for purposes of informing  
8     your own opinions and your own report?

9           A.     No.

10          Q.     There were a couple of  
11     questions earlier today about diversion.

12          A.     Yes.

13          Q.     Do you remember that?

14                 I just wanted to make sure I  
15     understood, that you do not have any  
16     opinions about the physical security that  
17     any distributor uses or has used to  
18     prevent diversion of controlled  
19     substances including prescription opioid  
20     medications, true?

21          A.     True.

22          Q.     And you have not identified  
23     any specific instances of diversion based  
24     on your review of any of the materials

1     that you've looked at in this lawsuit,  
2     correct?

3             A.     Correct. I haven't made any  
4     attempt to do that.

5             Q.     One of the things that I  
6     understand you did, pursuant to the  
7     lawyers' request, was to compare  
8     individual defendants' transactional data  
9     with the information that you saw in the  
10    DEA's ARCOS database; is that right?

11            A.     Yes.

12            Q.     You tried to match it up?

13            A.     Yes.

14            Q.     And in Cardinal's case, you  
15    concluded that the match had nearly  
16    perfect overlap. Do you remember writing  
17    that in your report?

18            A.     With the two exceptions that  
19    I identified in the report specifically  
20    for Cardinal. So maybe that wording  
21    isn't particularly good, because where  
22    they do not overlap is biggest for  
23    Cardinal Health compared to any of the  
24    other defendants. You've got the 610,000



# Exhibit C

1 UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF OHIO  
3 EASTERN DIVISION

4 IN RE: NATIONAL ) MDL No. 2804  
5 PRESCRIPTION OPIATE )  
6 LITIGATION ) Case No.  
7 ) 1:17-MD-2804  
8 )  
9 THIS DOCUMENT RELATES TO ) Hon. Dan A.  
10 ALL CASES ) Polster  
11 )

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
Monday, May 13, 2019

HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER  
CONFIDENTIALITY REVIEW

Videotaped Deposition of JAMES E.  
RAFALSKI, held at Weitz & Luxenburg PC, 3011  
West Grand Avenue, Suite 2150, Detroit,  
Michigan, commencing at 9:20 a.m., on the  
above date, before Michael E. Miller, Fellow  
of the Academy of Professional Reporters,  
Registered Diplomate Reporter, Certified  
Realtime Reporter and Notary Public.

GOLKOW LITIGATION SERVICES  
877.370.3377 ph | fax 917.591.5672  
deps@golkow.com

1 would be expected to purchase, and I think  
2 that a purchase that would exceed that as a  
3 system that would trigger that order to be of  
4 unusual size, I don't think that's a  
5 subjective nature.

6 Certainly, I guess companies  
7 could just hire people to just look at orders  
8 and then say that's an unusual order and that  
9 would be more of a subjective, but I think  
10 any system that's designed takes the  
11 subjective nature out of it.

12 Now, subsequent decisions may  
13 be subjective, but the actual identification  
14 would not be.

15 Q. What do you mean by "subsequent  
16 decisions"?

17 A. So an order is -- triggers as  
18 unusual order based on the size, and then the  
19 company has a couple of decisions to make.  
20 One, and this is based on my experience and  
21 based on the Masters case, is they could  
22 report it to the DEA and then not ship it and  
23 that could be the end of it.

24 So if they want to make a  
25 determination on whether or not they want to

1 ship it, they have to dispel the fact that  
2 it's a suspicious order to make sure that  
3 it's not diverted.

4 So someone obviously would have  
5 to gather some facts, and I guess make an  
6 evaluation of those facts. So what facts  
7 that that person, he or she, gathers and  
8 their opinion on whether or not it's  
9 suspicious, I think there has to be some  
10 level of subjectivity in there.

11 You could have a checklist and  
12 you could have a lot of formal procedures,  
13 but ultimately, someone has to make some  
14 decision.

15 Q. I would ask you the same  
16 question about orders that deviate  
17 substantially from a normal pattern. Is the  
18 determination of whether orders deviate  
19 substantially from a normal pattern a  
20 subjective determination?

21 A. My answer is kind of going to  
22 run parallel to the size. I think an unusual  
23 pattern start -- you know, first a company  
24 has to establish what's a usual pattern.

25 In regards to the preparation

1 UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF OHIO  
3 EASTERN DIVISION

4 IN RE: NATIONAL ) MDL No. 2804  
5 PRESCRIPTION OPIATE )  
6 LITIGATION ) Case No.  
7 ) 1:17-MD-2804  
8 )  
9 THIS DOCUMENT RELATES TO ) Hon. Dan A.  
10 ALL CASES ) Polster  
11 )

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
Tuesday, May 14, 2019

HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER  
CONFIDENTIALITY REVIEW

Videotaped Deposition of JAMES E.  
RAFALSKI, VOLUME 2, held at Weitz &  
Luxenburg PC, 3011 West Grand Avenue, Suite  
2150, Detroit, Michigan, commencing at  
8:25 a.m., on the above date, before  
Michael E. Miller, Fellow of the Academy of  
Professional Reporters, Registered Diplomate  
Reporter, Certified Realtime Reporter and  
Notary Public.

GOLKOW LITIGATION SERVICES  
877.370.3377 ph | fax 917.591.5672  
deps@golkow.com

1       yesterday that you did not review any of the  
2       flagged orders from Dr. McCann's analysis; is  
3       that correct?

4               A.       I think my testimony in that  
5       area was any specific orders. That would be  
6       correct of what my testimony was, yes.

7               Q.       You did not do any analysis to  
8       see whether any specific suspicious order  
9       caused the diversion of any specific pills  
10      for nonmedical use, correct?

11              A.       In regards to Dr. McCann's --

12              Q.       Correct.

13              A.       That would be a correct  
14      statement. I didn't do a specific order of a  
15      specific drug, if I understand your question  
16      properly.

17              Q.       Well, you asked for a  
18      clarification of whether I was speaking about  
19      Dr. McCann's analysis.

20                      You didn't do any analysis to  
21      see whether any specific suspicious order  
22      caused the diversion of any specific pills,  
23      correct?

24                      MR. FULLER: Object to form.

25              A.       I think that's an accurate

1 A. Sure. Yes, ma'am.

2 Q. Flagging Methodology A flagged  
3 95% of all Walgreens orders by dosage unit of  
4 oxycodone and hydrocodone, correct, sir?

5 A. Yes, ma'am.

6 Q. Is it your professional opinion  
7 to a reasonable degree of certainty that 95%  
8 of Walgreens orders should not have been  
9 shipped?

10 A. Based on the conduct of  
11 Walgreens and the failure to do due diligence  
12 on suspicious orders, yes, ma'am.

13 Q. Is it your opinion to a  
14 reasonable degree of certainty that only 5%  
15 of orders from Walgreens stores should have  
16 been shipped and available to fill  
17 prescriptions for Walgreens patients?

18 A. Well, that would be the  
19 converse of this statement, but based on  
20 their conduct -- I'll go back again, based on  
21 their conduct and their failure to do  
22 diligence after identification of suspicious  
23 orders, the only conclusion I can draw is  
24 that subsequent to that act, all of the  
25 controlled substances were diverted.

1           Q.       You don't have an opinion about  
2       whether any particular order -- you didn't  
3       look at any particular order to see whether  
4       it was diverted to an illicit channel?

5           A.       I did not --

6           Q.       Okay.

7           A.       -- analyze all the orders and  
8       try to find one or locate one that was  
9       diverted.

10          Q.       You didn't analyze any of the  
11       orders, correct, sir?

12          A.       That's correct.

13          Q.       You have no opinion about  
14       whether any particular order that was flagged  
15       as suspicious led to someone's addiction,  
16       overdose or death, correct, sir?

17          A.       As of today, I have no opinion  
18       on that matter.

19          Q.       Do you plan on coming up with  
20       that opinion at some point after today?

21          A.       I can't rule that out if I'm  
22       asked to look at that or I'm provided some  
23       information I could review that would -- that  
24       would indicate that. So I can't rule out  
25       that that would occur.



1 wouldn't have mattered in your hypothetical.

2 Would you agree with me on  
3 that?

4 It's a risk of -- maybe we can  
5 grant you that, but if the risk never came  
6 home to roost, then it doesn't matter, but  
7 you don't know that.

8 A. Well, that's it. The concept  
9 of why we're not agreeing on this is the  
10 suspicious order system and the effectiveness  
11 of it and the due diligence is all based on  
12 the risk of diversion. It doesn't mean that  
13 diversion is going to occur. Just based on  
14 the serious risk, and that's what makes it a  
15 maintenance of effective controls requirement  
16 by the law.

17 Q. All right. Take a look at  
18 page 108. So this -- I want to direct your  
19 attention to the top of page 108. You say:  
20 Mortelliti testified that while he was  
21 reviewing the IRR, every HCP order that  
22 appeared on the IRR was referred out for  
23 additional investigation which he believed  
24 was necessary.

25 With me so far?

# **Exhibit D**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

---

IN RE: NATIONAL PRESCRIPTION MDL No. 2804  
OPIATE LITIGATION Case No. 17-md-2804

This document relates to: Judge Dan  
Aaron Polster

The County of Cuyahoga v. Purdue  
Pharma, L.P., et al.  
Case No. 17-OP-45005  
City of Cleveland, Ohio vs. Purdue  
Pharma, L.P., et al.  
Case No. 18-OP-45132  
The County of Summit, Ohio,  
et al. v. Purdue Pharma, L.P.,  
et al.  
Case No. 18-OP-45090

---

Videotaped Deposition of Joseph Rannazzisi  
Washington, D.C.  
April 26, 2019  
8:37 a.m.

Reported by: Bonnie L. Russo  
Job No. 3301876

1 Q. So what is an order of unusual size?

2 A. An order of unusual size is a  
3 pattern, we will say, a pharmacy that has been  
4 ordering 5,000 tablets of Hydrocodone every  
5 month for the last three years and they all of  
6 a sudden bump it up to 20,000, then 50,000,  
7 then a hundred thousand and so on. That's  
8 unusual size.

9 Q. So it's unusual compared to their  
10 past practice?

11 A. Yes. One of the factors.

12 Q. What other factors?

13 MR. BENNETT: Objection. Scope.

14 THE WITNESS: They would be looking  
15 at other pharmacies that they service in that  
16 area, a pharmacy might have an unusually high  
17 purchase of a specific controlled substance in  
18 an area where everybody else was fairly  
19 consistent. That is unusual size as well.

20 Q. Just a large size compared to other  
21 pharmacies in the area?

22 A. Yes.

23 Q. But that large size could perhaps be  
24 explained by nonsuspicious reasons, correct?

25 A. That's due diligence.

# **Exhibit E**

1           IN THE UNITED STATES DISTRICT COURT  
2           FOR THE NORTHERN DISTRICT OF OHIO  
3           EASTERN DIVISION

4                   -   -   -

5  
6           IN RE:   NATIONAL                   :   HON. DAN A.  
7           PRESCRIPTION OPIATE           :   POLSTER  
8           LITIGATION                   :   :  
9                   :   :  
10          APPLIES TO ALL CASES           :   NO.  
11                   :   1:17-MD-2804  
12                   :   :  
13

14                   - HIGHLY CONFIDENTIAL -

15           SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

16                   VOLUME I

17                   -   -   -

18                   April 17, 2019

19                   -   -   -

20                   Videotaped deposition of  
21           THOMAS PREVOZNIK, taken pursuant to  
22           notice, was held at the law offices of  
23           Williams & Connolly, 725 12th Street,  
24           Washington, D.C., beginning at 9:11 a.m.,  
on the above date, before Michelle L.  
Gray, a Registered Professional Reporter,  
Certified Shorthand Reporter, Certified  
Realtime Reporter, and Notary Public.

                 -   -   -

                 GOLKOW LITIGATION SERVICES  
877.370.3377 ph | 917.591.5672 fax  
deps@golkow.com

1           A.       I'm not saying not at all.  
2       But if it's -- if it's not been used  
3       much, and then all of the sudden it takes  
4       off.

5           Q.       Okay. And if it does take  
6       off, is that enough to conclude that the  
7       product is being diverted?

8           A.       I don't think it's enough to  
9       conclude that it's diverted, just based  
10      on that. But it should be enough to make  
11      it a suspicious order, to at least report  
12      it.

13          Q.       Okay. And how big an  
14      increase do you have in mind when you say  
15      skyrocket?

16          A.       I don't have a number in  
17      mind.

18          Q.       It sort of depends on the  
19      situation?

20          A.       It depends on the situation,  
21      yeah.

22          Q.       All right. How about with  
23      respect to unusual frequency? When a  
24      manufacturer receives an order from a

1 THE WITNESS: Could you  
2 please repeat that?

3 BY MR. O'CONNOR:

4 Q. Not every suspicious order  
5 leads to diversion, correct?

6 A. Correct.

7 Q. I want to talk a little bit  
8 about how suspicious order reports are --  
9 are used within DEA.

10 Is it fair to say that most  
11 suspicious order reports are submitted to  
12 field offices?

13 A. I would say based on the  
14 fact that the big three are filing  
15 electronically, I would say the majority  
16 electronically.

17 Q. When an order or when  
18 suspicious order reports are filed  
19 electronically, does that mean they are  
20 filed with headquarters?

21 A. Yes. On the Legacy and the  
22 vetted system.

23 Q. Okay. And do registrants  
24 that are not reporting electronically to



# **Exhibit F**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

---

IN RE: NATIONAL PRESCRIPTION MDL No. 2804  
OPIATE LITIGATION Case No. 17-md-2804

This document relates to: Judge Dan  
Aaron Polster

The County of Cuyahoga v. Purdue  
Pharma, L.P., et al.  
Case No. 17-OP-45005

City of Cleveland, Ohio vs. Purdue  
Pharma, L.P., et al.  
Case No. 18-OP-45132

The County of Summit, Ohio,  
et al. v. Purdue Pharma, L.P.,  
et al.  
Case No. 18-OP-45090

---

VOLUME I  
Videotaped Deposition of Kyle J. Wright  
Washington, D.C.  
February 28, 2019  
9:33 a.m.

Reported by: Bonnie L. Russo  
Job No. 3244302

1 A. No.

2 Q. Okay. Curiosity: What is the WDO?

3 A. Washington district office.

4 Q. Okay. Okay. When you said in this  
5 e-mail that there were a large number of false  
6 positives, that referred to orders that were  
7 reported to suspicious but were not likely to  
8 be diverted, correct?

9 MR. BENNETT: Objection. Form of  
10 the question.

11 THE WITNESS: The word "diverted"  
12 means an act that it -- my understanding of the  
13 word "diverted" means an act that has already  
14 been fulfilled. It's -- it's -- it's been  
15 taken out -- taken out of this closed system of  
16 distribution.

17 MR. O'CONNOR: Okay.

18 THE WITNESS: It doesn't  
19 necessarily -- source does not mean -- or  
20 suspicious order does not imply that. It  
21 implies that there are suspicions that need to  
22 be resolved. Anomalies exist.

23 BY MR. O'CONNOR:

24 Q. Okay. But being reported as  
25 suspicious does not imply necessarily that it

1 will be diverted, correct?

2 A. It does not imply that, no.

3 Q. Earlier today we talked a little bit  
4 about -- or about ARCOS data.

5 At one point you were the unit chief  
6 for targeting and analysis, correct?

7 A. Correct.

8 Q. And that unit is responsible for  
9 ARCOS data; is that fair?

10 A. It is responsible for the output  
11 side of -- and making the information available  
12 as needed for analytical studies,  
13 investigations. But it is not responsible for  
14 the input side.

15 Q. Okay. What do you mean by "the  
16 output side"?

17 A. Output the product has been  
18 finalized.

19 Q. Okay. Would that refer to reports  
20 that are generated from ARCOS or something  
21 else?

22 A. The information has gone through the  
23 input side, which does several checks to make  
24 sure that the data could be used and received  
25 properly; it's been reported properly.

# **Exhibit G**

# Exhibit B

## (Summit County)

Narrative Response - Plaintiffs contend that the following orders, which were distributed by AmerisourceBergen Drug constitute Suspicious Orders as defined under 21 C.F.R. § 1301.74(b):

Suspicious Order No.	Distributor	Buyer DEA Number	Name, Address, and Store Number of Buyer	Base Code	NDC Code	Date of Order	Product Name	Dosage Strength	Dosage Units	Labeler*	Due Diligence Performed Y/N	Total Base Code Dosage Units Distributed by AmerisourceBergen Drug to this location in month of order	Meets 2 Times Rule	Meets 3 Times Rule	Meets Common Sense Method 2	Meets Common Sense Method 3	McKesson 8000 Rule
1	LOCKBOURNE, OH	██████	RITZMAN PHARMACY #101 (1323 COPLEY RD, AKRON, OH, 44320)	9193	406035705	10/7/11	HYDROCODONE BIT/ACETAMINOPHEN 5MG/50	5	21,000	SpecGx LLC	N	55,600	x	x	x	x	x
2	LOCKBOURNE, OH	██████	RITZMAN PHARMACY #102 (390 ROBINSON AVENUE, BARBERTON, OH, 44203)	9193	406035705	10/6/11	HYDROCODONE BIT/ACETAMINOPHEN 5MG/50	5	18,000	SpecGx LLC	N	41,800	x	x	x	x	x
3	LOCKBOURNE, OH	██████	RALEY DRUG STORE, INC (1760 GOODYEAR BLVD, AKRON, OH, 44305)	9143	591350301	10/26/06	OXYCODONE HCL 40MG TABS	40	4,800	Actavis Pharma, Inc.	N	39,300	x	x	x	x	x
4	LOCKBOURNE, OH	██████	WALGREEN CO. DBA: WALGREENS # 03281 (1130 S. ARLINGTON ST, AKRON, OH, 44306)	9143	228298150	12/26/14	OXYCODONE HCL/ACETAMINOPHEN 5MG/325M	5	5,500	Actavis Pharma, Inc.	N	31,500	x	x	x	x	x
5	LOCKBOURNE, OH	██████	WALGREEN CO. DBA: WALGREENS # 04776 (900 WOOSTER RD NORTH, BARBERTON, OH, 44203)	9143	228298150	12/26/14	OXYCODONE HCL/ACETAMINOPHEN 5MG/325M	5	3,500	Actavis Pharma, Inc.	N	30,700	x	x	x	x	x
6	LOCKBOURNE, OH	██████	WALGREEN CO. DBA: WALGREENS # 03572 (2645 STATE RD, CUYAHOGA FALLS, OH, 44223)	9143	228298150	12/30/14	OXYCODONE HCL/ACETAMINOPHEN 5MG/325M	5	2,500	Actavis Pharma, Inc.	N	27,400	x	x	x	x	x
7	LOCKBOURNE, OH	██████	WALGREEN CO. DBA: WALGREENS # 05904 (830 BRITTAIN RD, AKRON, OH, 44305)	9143	228298150	10/29/14	OXYCODONE HCL/ACETAMINOPHEN 5MG/325M	5	2,500	Actavis Pharma, Inc.	N	27,300	x	x	x	x	x
8	LOCKBOURNE, OH	██████	WALGREEN CO. DBA: WALGREENS # 03279 (1303 COPLEY ROAD, AKRON, OH, 44320)	9143	591074905	10/29/13	OXYCODONE HYDROCHLORIDE 5MG&ACETAMIN	5	3,000	Actavis Pharma, Inc.	N	26,800	x	x	x	x	x
9	LOCKBOURNE, OH	██████	THE FRED W ALBRECHT GROCERY (DBA ACME PHARMACY #18, AKRON, OH, 44314)	9143	406051205	10/29/12	OXYCODONE HCL/ACETAMINOPHEN 5MG/325M	5	2,500	SpecGx LLC	N	26,500	x	x	x	x	x
10	LOCKBOURNE, OH	██████	WALGREEN CO. DBA: WALGREENS # 03741 (302 CANTON ROAD, AKRON, OH, 44312)	9143	228298150	12/30/14	OXYCODONE HCL/ACETAMINOPHEN 5MG/325M	5	2,000	Actavis Pharma, Inc.	N	25,600	x	x	x	x	x

Suspicious Order No.	Distributor	Buyer DEA Number	Name, Address, and Store Number of Buyer	Base Code	NDC Code	Date of Order	Product Name	Dosage Strength	Dosage Units	Labeler*	Due Diligence Performed Y/N	Total Base Code Dosage Units Distributed by Anda, Inc to this location in month of order	Meets 2 Times Rule	Meets 3 Times Rule	Meets Common Sense Method 2	Meets Common Sense Method 3	McKesson 8000 Rule
1	GROVEPORT, OH	██████	NEW CHOICE PHARMACY (1900 23RD STREET, CUYAHOGA FALLS, OH, 44223)	9143	591350301	2/28/07	OXYCODONE HCL 40MG TABS	40	10,000	Actavis Pharma, Inc.	N	68,400	x	x	x	x	x
2	GROVEPORT, OH	██████	NEW CHOICE PHARMACY (1900 23RD STREET, CUYAHOGA FALLS, OH, 44223)	9143	591350401	11/29/06	OXYCODONE HCL 80MG TABS	80	2,400	Actavis Pharma, Inc.	N	63,600	x	x	x	x	x
3	GROVEPORT, OH	██████	NEW CHOICE PHARMACY (1900 23RD STREET, CUYAHOGA FALLS, OH, 44223)	9143	406051205	1/30/06	OXYCODONE HCL/ACETAMINOPHEN 5MG/325M	5	6,000	SpecGx LLC	N	10,200	x	x	x	x	x
4	GROVEPORT, OH	██████	DISCOUNT DRUG MART #33 (655 PORTAGE TRAIL, CUYAHOGA FALLS, OH, 44221)	9143	591074905	11/11/11	OXYCODONE HYDROCHLORIDE 5MG&ACETAMIN	5	1,500	Actavis Pharma, Inc.	N	10,000	x	x	x	x	x
5	GROVEPORT, OH	██████	DISCOUNT DRUG MART #33 (655 PORTAGE TRAIL, CUYAHOGA FALLS, OH, 44221)	9143	591074905	2/24/12	OXYCODONE HYDROCHLORIDE 5MG&ACETAMIN	5	1,500	Actavis Pharma, Inc.	N	8,300	x	x		x	x
6	WESTON, FL	██████	GIANT EAGLE PHARMACY #4124 (484 EAST WATERLOO RD, AKRON, OH, 44319)	9193	591034905	11/5/13	HYDROCODONE BIT 5MG/ACETAMINOPHEN 50	5	4,500	Actavis Pharma, Inc.	N	5,700	x	x	x	x	
7	WESTON, FL	██████	GIANT EAGLE PHARMACY #4031 (41 5TH STREET SE, BARBERTON, OH, 44203)	9193	591034905	11/4/13	HYDROCODONE BIT 5MG/ACETAMINOPHEN 50	5	3,000	Actavis Pharma, Inc.	N	5,700	x	x	x	x	
8	GROVEPORT, OH	██████	GIANT EAGLE PHARMACY #4031 (41 5TH STREET SE, BARBERTON, OH, 44203)	9193	591034901	1/13/09	HYDROCODONE BIT 5MG/ACETAMINOPHEN 50	5	1,200	Actavis Pharma, Inc.	N	5,000			x	x	
9	GROVEPORT, OH	██████	GIANT EAGLE PHARMACY #4029 (2801 EAST WATERLOO ROAD, AKRON, OH, 44312)	9193	591034905	4/3/12	HYDROCODONE BIT 5MG/ACETAMINOPHEN 50	5	3,500	Actavis Pharma, Inc.	N	3,500	x		x	x	
10	GROVEPORT, OH	██████	KARANT PHARMACY SERVICES DBA: MEDICINE SHOPPE #1065 (3300 GREENWICH ROAD, NORTON, OH, 44203)	9143	53746020305	6/10/09	OXYCODONE HCL/ACETAMINOPHEN TABS 5MG	5	1,500	Amneal Pharmaceuticals LLC	N	2,500			x	x	



Narrative Response - Plaintiffs contend that the following orders, which were distributed by Cardinal Health constitute Suspicious Orders as defined under 21 C.F.R. § 1301.74(b):

Suspicious Order No.	Distributor	Buyer DEA Number	Name, Address, and Store Number of Buyer	Base Code	NDC Code	Date of Order	Product Name	Dosage Strength	Dosage Units	Labeler*	Due Diligence Performed Y/N	Total Base Code Dosage Units Distributed by Cardinal Health to this location in month of order	Meets 2 Times Rule	Meets 3 Times Rule	Meets Common Sense Method 2	Meets Common Sense Method 3	McKesson 8000 Rule
1	WHEELING, WV	██████	NEW CHOICE PHARMACY (1900 23RD STREET, CUYAHOGA FALLS, OH, 44223)	9143	406051205	8/29/07	OXYCODONE HCL./ACETAMINOPHEN 5MG/325M	5	10,000	SpecGx LLC	N	134,900	x	x	x	x	x
2	WHEELING, WV	██████	NEW CHOICE PHARMACY (1900 23RD STREET, CUYAHOGA FALLS, OH, 44223)	9143	406051205	1/30/06	OXYCODONE HCL./ACETAMINOPHEN 5MG/325M	5	6,000	SpecGx LLC	N	106,400	x	x	x	x	x
3	WHEELING, WV	██████	OHIO CVS STORES, L.L.C. DBA: CVS/PHARMACY # 04800 (590 EAST MARKET STREET, AKRON, OH, 44304)	9143	406051201	12/31/13	OXYCODONE HCL./ACETAMINOPHEN 5MG/325M	5	5,000	SpecGx LLC	N	59,000	x	x	x	x	x
4	WHEELING, WV	██████	RTIZMAN PHARMACY #101 (1323 COPLEY RD, AKRON, OH, 44320)	9143	47781023005	12/31/14	OXYCODONE HCL./ACETAMINOPHEN 10MG/325	10	500	Alvogen, Inc.	N	42,400	x	x	x	x	x
5	WHEELING, WV	██████	MARC GLASSMAN INC DBA MARC'S (360 EAST WATERLOO RD, AKRON, OH, 44319)	9193	603388132	7/26/06	HYDROCODONE.BIT. & ACETA 5MG & 500M	5	18,000	Par Pharmaceutical	N	41,200	x	x	x	x	x
6	WHEELING, WV	██████	OHIO CVS STORES, L.L.C. DBA: CVS/PHARMACY # 03083 (780 BRITTAIN ROAD, AKRON, OH, 44305)	9143	591093201	12/28/11	OXYCODONE.HCL./APAP 10MG/325MG TABS	10	2,400	Actavis Pharma, Inc.	N	33,100	x	x	x	x	x
7	WHEELING, WV	██████	OHIO CVS STORES, L.L.C. DBA: CVS/PHARMACY # 03360 (3352 KENT ROAD, STOW, OH, 44224)	9143	406051201	12/24/13	OXYCODONE HCL./ACETAMINOPHEN 5MG/325M	5	3,000	SpecGx LLC	N	31,500	x	x	x	x	x
8	WHEELING, WV	██████	NEW CHOICE PHARMACY (1900 23RD STREET, CUYAHOGA FALLS, OH, 44223)	9193	603388732	12/31/09	HYDROCODONE BIT./ACETA 10MG/325MG TA	10	1,000	Par Pharmaceutical	N	25,900	x	x	x	x	x
9	WHEELING, WV	██████	OHIO CVS STORES, L.L.C. DBA: CVS/PHARMACY # 04312 (1225 CANTON RD, AKRON, OH, 44312)	9143	591093201	11/26/10	OXYCODONE.HCL./APAP 10MG/325MG TABS	10	1,600	Actavis Pharma, Inc.	N	25,200	x	x	x	x	x
10	WHEELING, WV	██████	OHIO CVS STORES, L.L.C. DBA: CVS/PHARMACY # 03041 (235 EAST CUYAHOGA FALLS AVE, AKRON, OH, 44310)	9143	406051201	5/23/12	OXYCODONE HCL./ACETAMINOPHEN 5MG/325M	5	2,400	SpecGx LLC	N	24,900	x	x	x	x	x

Narrative Response - Plaintiffs contend that the following orders, which were distributed by CVS constitute Suspicious Orders as defined under 21 C.F.R. § 1301.74(b):

Suspicious Order No.	Distributor	Buyer DEA Number	Name, Address, and Store Number of Buyer	Base Code	NDC Code	Date of Order	Product Name	Dosage Strength	Dosage Units	Labeler*	Due Diligence Performed Y/N	Total Base Code Dosage Units Distributed by CVS to this location in month of order	Meets 2 Times Rule	Meets 3 Times Rule	Meets Common Sense Method 2	Meets Common Sense Method 3	McKesson 8000 Rule
1	INDIANAPOLIS, IN	██████	OHIO CVS STORES, L.L.C. DBA: CVS/PHARMACY # 04800 (590 EAST MARKET STREET, AKRON, OH, 44304)	9193	406035705	12/19/09	HYDROCODONE BIT/ACETAMINOPHEN 5MG/50	5	8,000	SpecGx LLC	N	50,800	x	x	x	x	x
2	INDIANAPOLIS, IN	██████	OHIO CVS STORES, L.L.C. DBA: CVS/PHARMACY # 04800 (590 EAST MARKET STREET, AKRON, OH, 44304)	9193	406035705	10/17/09	HYDROCODONE BIT/ACETAMINOPHEN 5MG/50	5	27,500	SpecGx LLC	N	50,200	x	x	x	x	x
3	INDIANAPOLIS, IN	██████	OHIO CVS STORES, L.L.C. DBA: CVS/PHARMACY # 03355 (4195 S. CLEVELAND-MASSILLON ROAD, NORTON, OH, 44203)	9193	406035705	10/28/09	HYDROCODONE BIT/ACETAMINOPHEN 5MG/50	5	9,000	SpecGx LLC	N	47,400	x	x	x	x	x
4	INDIANAPOLIS, IN	██████	OHIO CVS STORES, L.L.C. DBA: CVS/PHARMACY # 04312 (1225 CANTON RD, AKRON, OH, 44312)	9193	406035705	10/29/09	HYDROCODONE BIT/ACETAMINOPHEN 5MG/50	5	9,500	SpecGx LLC	N	46,700	x	x	x	x	x
5	INDIANAPOLIS, IN	██████	OHIO CVS STORES, L.L.C. DBA: CVS/PHARMACY # 03041 (235 EAST CUYAHOGA FALLS AVE, AKRON, OH, 44310)	9193	406035705	10/29/09	HYDROCODONE BIT/ACETAMINOPHEN 5MG/50	5	9,500	SpecGx LLC	N	39,900	x		x	x	x
6	INDIANAPOLIS, IN	██████	OHIO CVS STORES, L.L.C. DBA: CVS/PHARMACY # 04309 (1711 STATE RD, CUYAHOGA FALLS, OH, 44223)	9193	406035705	10/31/09	HYDROCODONE BIT/ACETAMINOPHEN 5MG/50	5	5,500	SpecGx LLC	N	34,100	x		x	x	x
7	INDIANAPOLIS, IN	██████	OHIO CVS STORES, L.L.C. DBA: CVS/PHARMACY # 03320 (426 ROBINSON AVE., BARBERTON, OH, 44203)	9193	406035705	10/28/09	HYDROCODONE BIT/ACETAMINOPHEN 5MG/50	5	8,000	SpecGx LLC	N	33,900	x		x	x	x
8	INDIANAPOLIS, IN	██████	BRITTAIN ROAD CVS, INC. DBA: CVS/PHARMACY # 03083 (780 BRITTAIN ROAD, AKRON, OH, 44305)	9193	406035705	10/29/09	HYDROCODONE BIT/ACETAMINOPHEN 5MG/50	5	12,000	SpecGx LLC	N	32,500	x		x	x	x
9	INDIANAPOLIS, IN	██████	OHIO CVS STORES, L.L.C. DBA: CVS/PHARMACY # 03360 (3352 KENT ROAD, STOW, OH, 44224)	9193	406035705	10/31/09	HYDROCODONE BIT/ACETAMINOPHEN 5MG/50	5	9,000	SpecGx LLC	N	32,000	x		x	x	x
10	INDIANAPOLIS, IN	██████	OHIO CVS STORES, L.L.C. DBA: CVS/PHARMACY # 04333 (2091 EASTWOOD AVENUE, AKRON, OH, 44305)	9193	406035705	10/29/09	HYDROCODONE BIT/ACETAMINOPHEN 5MG/50	5	4,000	SpecGx LLC	N	31,600	x		x	x	x

Narrative Response - Plaintiffs contend that the following orders, which were distributed by Discount Drug Mart constitute Suspicious Orders as defined under 21 C.F.R. § 1301.74(b):

Suspicious Order No.	Distributor	Buyer DEA Number	Name, Address, and Store Number of Buyer	Base Code	NDC Code	Date of Order	Product Name	Dosage Strength	Dosage Units	Labeler*	Due Diligence Performed Y/N	Total Base Code Dosage Units Distributed by Discount Drug Mart to this location in month of order	Meets 2 Times Rule	Meets 3 Times Rule	Meets Common Sense Method 2	Meets Common Sense Method 3	McKesson 8000 Rule
1	MEDINA, OH	██████	DISCOUNT DRUG MART #45 (711 CANTON ROAD, AKRON, OH, 44312)	9193	603389032	9/26/14	HYDROCODONE BITARTRATE 5MG/ACETAMINO	5	5,000	Par Pharmaceutical	N	57,500			x	x	x
2	MEDINA, OH	██████	DISCOUNT DRUG MART #33 (655 PORTAGE TRAIL, CUYAHOGA FALLS, OH, 44221)	9193	603389032	9/17/14	HYDROCODONE BITARTRATE 5MG/ACETAMINO	5	17,000	Par Pharmaceutical	N	48,380			x	x	x
3	MEDINA, OH	██████	DISCOUNT DRUG MART #45 (711 CANTON ROAD, AKRON, OH, 44312)	9193	591034905	3/23/12	HYDROCODONE BIT 5MG/ACETAMINOPHEN 50	5	2,000	Actavis Pharma, Inc.	N	16,080			x	x	x
4	MEDINA, OH	██████	DISCOUNT DRUG MART #33 (655 PORTAGE TRAIL, CUYAHOGA FALLS, OH, 44221)	9193	591034905	12/22/10	HYDROCODONE BIT 5MG/ACETAMINOPHEN 50	5	2,000	Actavis Pharma, Inc.	N	15,700			x	x	x
5	MEDINA, OH	██████	DISCOUNT DRUG MART #33 (655 PORTAGE TRAIL, CUYAHOGA FALLS, OH, 44221)	9193	591034905	6/29/11	HYDROCODONE BIT 5MG/ACETAMINOPHEN 50	5	2,000	Actavis Pharma, Inc.	N	15,500			x	x	x
6	MEDINA, OH	██████	DISCOUNT DRUG MART #45 (711 CANTON ROAD, AKRON, OH, 44312)	9193	591034905	6/24/11	HYDROCODONE BIT 5MG/ACETAMINOPHEN 50	5	1,500	Actavis Pharma, Inc.	N	14,660			x	x	x
7	MEDINA, OH	██████	DISCOUNT DRUG MART #80 (3100 GLENWOOD BLVD, TWINSBURG, OH, 44087)	9193	603389032	9/16/14	HYDROCODONE BITARTRATE 5MG/ACETAMINO	5	2,000	Par Pharmaceutical	N	13,860			x	x	x
8	MEDINA, OH	██████	DISCOUNT DRUG MART (4044 FISHCREEK RD, STOW, OH, 44224)	9193	603389128	9/24/14	HYDROCODONE BITARTRATE & ACETA 7.5MG	7.5	1,000	Par Pharmaceutical	N	10,320			x	x	x
9	MEDINA, OH	██████	DISCOUNT DRUG MART (4044 FISHCREEK RD, STOW, OH, 44224)	9193	591034905	12/31/08	HYDROCODONE BIT 5MG/ACETAMINOPHEN 50	5	1,500	Actavis Pharma, Inc.	N	9,700			x	x	x
10	MEDINA, OH	██████	DISCOUNT DRUG MART #64 (5863 DARROW RD, HUDSON, OH, 44236)	9193	591038705	7/24/07	HYDROCODONE BITARTRATE 7.5MG/ACETAMI	7.5	500	Actavis Pharma, Inc.	N	4,200			x	x	

Narrative Response - Plaintiffs contend that the following orders, which were distributed by HBC Service Company constitute Suspicious Orders as defined under 21 C.F.R. § 1301.74(b):

Suspicious Order No.	Distributor	Buyer DEA Number	Name, Address, and Store Number of Buyer	Base Code	NDC Code	Date of Order	Product Name	Dosage Strength	Dosage Units	Labeler*	Due Diligence Performed Y/N	Total Base Code Dosage Units Distributed by HBC Service Company to this location in month of order	Meets 2 Times Rule	Meets 3 Times Rule	Meets Common Sense Method 2	Meets Common Sense Method 3	McKesson 8000 Rule
1	WASHINGTON, PA	██████	GIANT EAGLE PHARMACY #4031 NA (41 5TH STREET SE, BARBERTON, OH, 44203)	9193	603388128	1/30/12	HYDROCODONE.BIT. & ACETA 5MG & 500M	5	1,500	Par Pharmaceutical	N	47,290	x	x	x	x	x
2	WASHINGTON, PA	██████	GIANT EAGLE PHARMACY #4031 NA (41 5TH STREET SE, BARBERTON, OH, 44203)	9193	603388128	10/31/11	HYDROCODONE.BIT. & ACETA 5MG & 500M	5	1,500	Par Pharmaceutical	N	44,250	x	x	x	x	x
3	WASHINGTON, PA	██████	GIANT EAGLE PHARMACY #4124 NA (484 EAST WATERLOO RD, AKRON, OH, 44319)	9193	603388128	3/30/11	HYDROCODONE.BIT. & ACETA 5MG & 500M	5	1,000	Par Pharmaceutical	N	25,730	x		x	x	x
4	WASHINGTON, PA	██████	GIANT EAGLE PHARMACY #4124 NA (484 EAST WATERLOO RD, AKRON, OH, 44319)	9193	603388128	10/28/11	HYDROCODONE.BIT. & ACETA 5MG & 500M	5	1,000	Par Pharmaceutical	N	25,450			x	x	x
5	WASHINGTON, PA	██████	GIANT EAGLE PHARMACY #4029 NA (2801 EAST WATERLOO ROAD, AKRON, OH, 44312)	9193	603388128	1/28/13	HYDROCODONE.BIT. & ACETA 5MG & 500M	5	1,500	Par Pharmaceutical	N	23,360			x	x	x
6	WASHINGTON, PA	██████	GIANT EAGLE PHARMACY #4029 NA (2801 EAST WATERLOO ROAD, AKRON, OH, 44312)	9193	603388128	12/30/12	HYDROCODONE.BIT. & ACETA 5MG & 500M	5	1,000	Par Pharmaceutical	N	21,960			x	x	x
7	WASHINGTON, PA	██████	GIANT EAGLE PHARMACY #4030 NA (205 WEST AVE, TALLMADGE, OH, 44278)	9193	603388128	11/30/11	HYDROCODONE.BIT. & ACETA 5MG & 500M	5	1,000	Par Pharmaceutical	N	21,790			x	x	x
8	WASHINGTON, PA	██████	GIANT EAGLE PHARMACY #4030 NA (205 WEST AVE, TALLMADGE, OH, 44278)	9193	603388128	2/24/12	HYDROCODONE.BIT. & ACETA 5MG & 500M	5	1,000	Par Pharmaceutical	N	20,260			x	x	x
9	WASHINGTON, PA	██████	GIANT EAGLE PHARMACY #5878 NA (230 HOWE RD, CUYAHOGA FALLS, OH, 44221)	9193	406036005	12/29/12	HYDROCODO.BIT/APAP 7.5MG/750MG USP T	7.5	500	SpecGx LLC	N	16,930			x	x	x
10	WASHINGTON, PA	██████	GIANT EAGLE PHARMACY #5878 NA (230 HOWE RD, CUYAHOGA FALLS, OH, 44221)	9193	603388128	1/18/13	HYDROCODONE.BIT. & ACETA 5MG & 500M	5	1,000	Par Pharmaceutical	N	16,930			x	x	x

Narrative Response - Plaintiffs contend that the following orders, which were distributed by McKesson Corporation constitute Suspicious Orders as defined under 21 C.F.R. § 1301.74(b):

Suspicious Order No.	Distributor	Buyer DEA Number	Name, Address, and Store Number of Buyer	Base Code	NDC Code	Date of Order	Product Name	Dosage Strength	Dosage Units	Labeler*	Due Diligence Performed Y/N	Total Base Code Dosage Units Distributed by McKesson Corporation to this location in month of order	Meets 2 Times Rule	Meets 3 Times Rule	Meets Common Sense Method 2	Meets Common Sense Method 3	McKesson 8000 Rule
1	NEW CASTLE, PA	██████	THE FRED W ALBRECHT GROCERY CO DBA ACME PHARMACY #30 (4302 ALLEN RD SUITE #110, STOW, OH, 44224)	9143	228287811	7/29/14	OXYCODONE HCL 15MG TABLETS, 100 CT	15	600	Actavis Pharma, Inc.	N	70,000	x	x	x	x	x
2	NEW CASTLE, PA	██████	RITE AID OF OHIO, INC. RITE AID #3182 (1047 KENMORE BOULEVARD, AKRON, OH, 44314)	9143	406052301	7/18/11	OXYCODONE HCL/ACETAMINOPHEN 10MG/325	10	1,800	SpecGx LLC	N	32,100	x	x	x	x	x
3	NEW CASTLE, PA	██████	THE FRED W ALBRECHT GROCERY (DBA ACME PHARMACY #18, AKRON, OH, 44314)	9143	406051205	12/17/14	OXYCODONE HCL/ACETAMINOPHEN 5MG/325M	5	3,000	SpecGx LLC	N	29,800	x	x	x	x	x
4	NEW CASTLE, PA	██████	GIANT EAGLE PHARMACY #4124 (484 EAST WATERLOO RD, AKRON, OH, 44319)	9193	406035705	3/27/09	HYDROCODONE BIT/ACETAMINOPHEN 5MG/50	5	1,500	SpecGx LLC	N	25,700	x	x	x	x	x
5	NEW CASTLE, PA	██████	RITE AID OF OHIO, INC. RITE AID #3143 (1540 CANTON ROAD, AKRON, OH, 44312)	9143	406055262	3/31/11	OXYCODONE HYDROCHLORIDE 5MG TABS USP	5	1,200	SpecGx LLC	N	22,500	x	x	x	x	x
6	NEW CASTLE, PA	██████	GIANT EAGLE PHARMACY #4036 (2687 STATE ROAD, CUYAHOGA FALLS, OH, 44223)	9193	406035701	3/23/09	HYDROCODONE BIT/ACETAMINOPHEN 5MG/50	5	1,200	SpecGx LLC	N	20,380	x	x	x	x	x
7	NEW CASTLE, PA	██████	GIANT EAGLE PHARMACY #4030 (205 WEST AVE, TALLMADGE, OH, 44278)	9143	406051201	12/26/14	OXYCODONE HCL/ACETAMINOPHEN 5MG/325M	5	2,400	SpecGx LLC	N	18,900	x	x	x	x	x
8	NEW CASTLE, PA	██████	FRED W ALBRECHT GROCERY CO (DBA ACME PHARMACY #14, AKRON, OH, 44319)	9193	406036505	7/31/14	HYDROCODONE BIT/ACETA 5MG/325MG USP	5	500	SpecGx LLC	N	18,700	x	x	x	x	x
9	NEW CASTLE, PA	██████	RITE AID OF OHIO, INC. RITE AID #3144 (2975 WEST MARKET STREET, FAIRLAWN, OH, 44333)	9143	406051201	5/31/07	OXYCODONE HCL/ACETAMINOPHEN 5MG/325M	5	1,200	SpecGx LLC	N	18,400	x	x	x	x	x
10	NEW CASTLE, PA	██████	MARCS CHAPEL HILL INC (470 HOWE AVENUE, CUYAHOGA FALLS, OH, 44221)	9193	603388128	2/27/12	HYDROCODONE.BIT. & ACETA 5MG & 500M	5	2,500	Par Pharmaceutical	N	17,400	x	x	x	x	x

Suspicious Order No.	Distributor	Buyer DEA Number	Name, Address, and Store Number of Buyer	Base Code	NDC Code	Date of Order	Product Name	Dosage Strength	Dosage Units	Labeler*	Due Diligence Performed Y/N	Total Base Code Dosage Units Distributed by Prescription Supply Inc to this location in month of order	Meets 2 Times Rule	Meets 3 Times Rule	Meets Common Sense Method 2	Meets Common Sense Method 3	McKesson 8000 Rule
1	NORTHWOOD, OH	██████	KARANT PHARMACY SERVICES DBA: MEDICINE SHOPPE #1065 (3300 GREENWICH ROAD, NORTON, OH, 44203)	9143	406055401	4/9/09	OXYCODONE HYDROCHLORIDE 5MG CAPS	5	1,200	SpecGx LLC	N	2,000					
2	NORTHWOOD, OH	██████	KARANT PHARMACY SERVICES DBA: MEDICINE SHOPPE #1065 (3300 GREENWICH ROAD, NORTON, OH, 44203)	9143	228287811	1/14/13	OXYCODONE HCL 15MG TABLETS, 100 CT	15	600	Actavis Pharma, Inc.	N	2,000					
3	NORTHWOOD, OH	██████	KARANT PHARMACY SERVICES DBA: MEDICINE SHOPPE #1065 (3300 GREENWICH ROAD, NORTON, OH, 44203)	9143	228287811	3/18/13	OXYCODONE HCL 15MG TABLETS, 100 CT	15	500	Actavis Pharma, Inc.	N	1,600					
4	NORTHWOOD, OH	██████	KARANT PHARMACY SERVICES DBA: MEDICINE SHOPPE #1065 (3300 GREENWICH ROAD, NORTON, OH, 44203)	9193	53746011105	2/2/09	HYDROCODONE/ACETAMINOPHEN 5MG/500MG	5	1,000	Amneal Pharmaceuticals LLC	N	1,000					
5	NORTHWOOD, OH	██████	KARANT PHARMACY SERVICES DBA: MEDICINE SHOPPE #1065 (3300 GREENWICH ROAD, NORTON, OH, 44203)	9193	591034905	5/4/12	HYDROCODONE BIT 5MG/ACETAMINOPHEN 50	5	1,000	Actavis Pharma, Inc.	N	1,000					
6	NORTHWOOD, OH	██████	KARANT PHARMACY SERVICES DBA: MEDICINE SHOPPE #1065 (3300 GREENWICH ROAD, NORTON, OH, 44203)	9143	57664022488	5/17/13	OXYCODONE HCL 30MG TABLETS, USP	30	500	Sun Pharmaceutical Industries, Inc.	N	800					
7	NORTHWOOD, OH	██████	DISCOUNT DRUG MART (4044 FISHCREEK RD, STOW, OH, 44224)	9143	228287811	2/3/12	OXYCODONE HCL 15MG TABLETS, 100 CT	15	400	Actavis Pharma, Inc.	N	600					
8	NORTHWOOD, OH	██████	KARANT PHARMACY SERVICES DBA: MEDICINE SHOPPE #1065 (3300 GREENWICH ROAD, NORTON, OH, 44203)	9143	60951060270	11/12/12	ENDOCET OXYCODONE HCL 5MG&AC TAB	5	500	Par Pharmaceutical	N	500					
9	NORTHWOOD, OH	██████	KARANT PHARMACY SERVICES DBA: MEDICINE SHOPPE #1065 (3300 GREENWICH ROAD, NORTON, OH, 44203)	9143	10702001801	12/4/14	OXYCODONE HCL 5MG USP TABLETS	5	500	KVK-Tech, Inc.	N	500					
10	NORTHWOOD, OH	██████	KARANT PHARMACY SERVICES DBA: MEDICINE SHOPPE #1065 (3300 GREENWICH ROAD, NORTON, OH, 44203)	9143	406853001	1/8/10	OXYCODONE HYDROCHLORIDE 30MG TABLET	30	400	SpecGx LLC	N	400					

Narrative Response - Plaintiffs contend that the following orders, which were distributed by Rite Aid constitute Suspicious Orders as defined under 21 C.F.R. § 1301.74(b):

Suspicious Order No.	Distributor	Buyer DEA Number	Name, Address, and Store Number of Buyer	Base Code	NDC Code	Date of Order	Product Name	Dosage Strength	Dosage Units	Labeler*	Due Diligence Performed Y/N	Total Base Code Dosage Units Distributed by Rite Aid to this location in month of order	Meets 2 Times Rule	Meets 3 Times Rule	Meets Common Sense Method 2	Meets Common Sense Method 3	McKesson 8000 Rule
1	ABERDEEN, MD	██████	RITE AID OF OHIO, INC. RITE AID #3151 (325 EAST WATERLOO ROAD, AKRON, OH, 44319)	9193	406035705	5/28/09	HYDROCODONE BIT/ACETAMINOPHEN 5MG/50	5	5,000	SpecGx LLC	N	32,300	x	x	x	x	x
2	ABERDEEN, MD	██████	RITE AID OF OHIO, INC. RITE AID #3151 (325 EAST WATERLOO ROAD, AKRON, OH, 44319)	9193	406035705	8/29/09	HYDROCODONE BIT/ACETAMINOPHEN 5MG/50	5	4,500	SpecGx LLC	N	30,600	x	x	x	x	x
3	ABERDEEN, MD	██████	RITE AID OF OHIO, INC. RITE AID #3143 (1540 CANTON ROAD, AKRON, OH, 44312)	9193	406035705	4/30/08	HYDROCODONE BIT/ACETAMINOPHEN 5MG/50	5	2,500	SpecGx LLC	N	18,400	x		x	x	x
4	ABERDEEN, MD	██████	RITE AID OF OHIO, INC. RITE AID #3182 (1047 KENMORE BOULEVARD, AKRON, OH, 44314)	9193	603388128	8/29/12	HYDROCODONE,BIT. & ACETA 5MG & 500M	5	2,000	Par Pharmaceutical	N	17,630	x		x	x	x
5	ABERDEEN, MD	██████	RITE AID OF OHIO, INC. RITE AID #3143 (1540 CANTON ROAD, AKRON, OH, 44312)	9193	406035705	12/22/08	HYDROCODONE BIT/ACETAMINOPHEN 5MG/50	5	3,500	SpecGx LLC	N	17,600	x		x	x	x
6	ABERDEEN, MD	██████	RITE AID OF OHIO, INC (T/A RITE AID DISCNT PHCY 1924, AKRON, OH, 44311)	9193	406035705	1/23/07	HYDROCODONE BIT/ACETAMINOPHEN 5MG/50	5	2,500	SpecGx LLC	N	17,300	x		x	x	x
7	ABERDEEN, MD	██████	RITE AID OF OHIO, INC. RITE AID #4296 (1403 WOOSTER ROAD WEST, BARBERTON, OH, 44203)	9193	406036505	6/30/14	HYDROCODONE BIT/ACETA 5MG/325MG USP	5	4,500	SpecGx LLC	N	17,300	x		x	x	x
8	ABERDEEN, MD	██████	RITE AID OF OHIO, INC. RITE AID #3182 (1047 KENMORE BOULEVARD, AKRON, OH, 44314)	9193	406035705	10/29/08	HYDROCODONE BIT/ACETAMINOPHEN 5MG/50	5	2,500	SpecGx LLC	N	17,200	x		x	x	x
9	ABERDEEN, MD	██████	RITE AID OF OHIO, INC. RITE AID #4296 (1403 WOOSTER ROAD WEST, BARBERTON, OH, 44203)	9193	603388128	12/26/12	HYDROCODONE,BIT. & ACETA 5MG & 500M	5	2,500	Par Pharmaceutical	N	17,100	x		x	x	x
10	ABERDEEN, MD	██████	RITE AID OF OHIO, INC. RITE AID #2456 (4053 SOUTH MAIN STREET, AKRON, OH, 44319)	9193	406035705	12/22/08	HYDROCODONE BIT/ACETAMINOPHEN 5MG/50	5	3,000	SpecGx LLC	N	16,900	x		x	x	x

Narrative Response - Plaintiffs contend that the following orders, which were distributed by Wal-Mart constitute Suspicious Orders as defined under 21 C.F.R. § 1301.74(b):

Suspicious Order No.	Distributor	Buyer DEA Number	Name, Address, and Store Number of Buyer	Base Code	NDC Code	Date of Order	Product Name	Dosage Strength	Dosage Units	Labeler*	Due Diligence Performed Y/N	Total Base Code Dosage Units Distributed by Wal-Mart to this location in month of order	Meets 2 Times Rule	Meets 3 Times Rule	Meets Common Sense Method 2	Meets Common Sense Method 3	McKesson 8000 Rule
1	WILLIAMSPORT, MD	██████	WAL-MART PHARMACY 10-1911 NA (2887 S. ARLINGTON ST, AKRON (S), OH, 44312)	9193	406035701	8/19/13	HYDROCODONE BIT/ACETAMINOPHEN 5MG/50	5	600	SpecGx LLC	N	20,400			x	x	x
2	WILLIAMSPORT, MD	██████	WAL-MART PHARMACY 10-1911 NA (2887 S. ARLINGTON ST, AKRON (S), OH, 44312)	9193	406035705	12/30/08	HYDROCODONE BIT/ACETAMINOPHEN 5MG/50	5	3,500	SpecGx LLC	N	14,400			x	x	x
3	WILLIAMSPORT, MD	██████	WAL-MART PHARMACY 10-2323 NA (3520 HUDSON DRIVE, STOW, OH, 44224)	9193	406035705	7/31/09	HYDROCODONE BIT/ACETAMINOPHEN 5MG/50	5	500	SpecGx LLC	N	12,400			x	x	x
4	WILLIAMSPORT, MD	██████	WAL-MART PHARMACY 10-2323 NA (3520 HUDSON DRIVE, STOW, OH, 44224)	9193	406036001	8/23/13	HYDROCODONE.BIT/APAP 7.5MG/750MG USP T	7.5	700	SpecGx LLC	N	12,400			x	x	x
5	WILLIAMSPORT, MD	██████	WAL-MART PHARMACY 10-2323 NA (3520 HUDSON DRIVE, STOW, OH, 44224)	9193	406035705	4/30/09	HYDROCODONE BIT/ACETAMINOPHEN 5MG/50	5	1,000	SpecGx LLC	N	10,700			x	x	x
6	WILLIAMSPORT, MD	██████	WAL-MART PHARMACY 10-1895 NA (3750-I WEST MARKET ST, FAIRLAWN, OH, 44333)	9193	406036001	8/20/13	HYDROCODONE.BIT/APAP 7.5MG/750MG USP T	7.5	500	SpecGx LLC	N	9,300			x	x	x
7	CRAWFORDSVILLE, IN	██████	WAL-MART PHARMACY 10-1927 NA (8160 MACEDONIA COMMONS BLVD, MACEDONIA, OH, 44056)	9193	406035705	6/30/08	HYDROCODONE BIT/ACETAMINOPHEN 5MG/50	5	500	SpecGx LLC	N	7,800			x	x	
8	CRAWFORDSVILLE, IN	██████	WAL-MART PHARMACY 10-1927 NA (8160 MACEDONIA COMMONS BLVD, MACEDONIA, OH, 44056)	9193	603388728	12/21/11	HYDROCODONE.BIT/ACE T.,10MG & 325MG/	10	500	Par Pharmaceutical	N	7,300			x	x	
9	WILLIAMSPORT, MD	██████	WAL-MART PHARMACY 10-1895 NA (3750-I WEST MARKET ST, FAIRLAWN, OH, 44333)	9193	406035705	3/31/11	HYDROCODONE BIT/ACETAMINOPHEN 5MG/50	5	500	SpecGx LLC	N	6,500			x	x	
10	WILLIAMSPORT, MD	██████	SAM'S PHARMACY 10-4750 NA (1189 BUCHHOLZER BLVD, CUYAHOGA FALLS, OH, 44221)	9193	406036001	7/28/11	HYDROCODONE.BIT/APAP 7.5MG/750MG USP T	7.5	500	SpecGx LLC	N	4,400			x	x	



Narrative Response - Plaintiffs contend that the following orders, which were distributed by Walgreen Co constitute Suspicious Orders as defined under 21 C.F.R. § 1301.74(b):

Suspicious Order No.	Distributor	Buyer DEA Number	Name, Address, and Store Number of Buyer	Base Code	NDC Code	Date of Order	Product Name	Dosage Strength	Dosage Units	Labeler*	Due Diligence Performed Y/N	Total Base Code Dosage Units Distributed by Walgreen Co to this location in month of order	Meets 2 Times Rule	Meets 3 Times Rule	Meets Common Sense Method 2	Meets Common Sense Method 3	McKesson 8000 Rule
1	PERRYSBURG, OH	██████	WALGREEN CO. DBA: WALGREENS # 03572 (2645 STATE RD, CUYAHOGA FALLS, OH, 44223)	9193	591034905	6/30/09	HYDROCODONE BIT 5MG/ACETAMINOPHEN 50	5	4,500	Actavis Pharma, Inc.	N	35,620	x		x	x	x
2	PERRYSBURG, OH	██████	WALGREEN CO. DBA: WALGREENS # 03281 (1130 S. ARLINGTON ST, AKRON, OH, 44306)	9143	591074905	5/30/12	OXYCODONE HYDROCHLORIDE 5MG&ACETAMIN	5	3,000	Actavis Pharma, Inc.	N	33,600	x	x	x	x	x
3	PERRYSBURG, OH	██████	WALGREEN CO. DBA: WALGREENS # 03572 (2645 STATE RD, CUYAHOGA FALLS, OH, 44223)	9193	591034905	5/29/09	HYDROCODONE BIT 5MG/ACETAMINOPHEN 50	5	3,000	Actavis Pharma, Inc.	N	33,340	x		x	x	x
4	PERRYSBURG, OH	██████	WALGREEN CO. DBA: WALGREENS # 03281 (1130 S. ARLINGTON ST, AKRON, OH, 44306)	9143	591074905	8/23/12	OXYCODONE HYDROCHLORIDE 5MG&ACETAMIN	5	2,000	Actavis Pharma, Inc.	N	33,000	x	x	x	x	x
5	PERRYSBURG, OH	██████	WALGREEN CO. DBA: WALGREENS #11143 (3009 W. MARKET ST., FAIRLAWN, OH, 44333)	9143	591093201	11/28/11	OXYCODONE.HCL/APAP 10MG/325MG TABS	10	2,500	Actavis Pharma, Inc.	N	29,700	x	x	x	x	x
6	PERRYSBURG, OH	██████	WALGREEN CO. DBA: WALGREENS # 04776 (900 WOOSTER RD NORTH, BARBERTON, OH, 44203)	9143	591074905	12/30/09	OXYCODONE HYDROCHLORIDE 5MG&ACETAMIN	5	2,500	Actavis Pharma, Inc.	N	29,100	x	x	x	x	x
7	PERRYSBURG, OH	██████	WALGREEN CO. DBA: WALGREENS #11143 (3009 W. MARKET ST., FAIRLAWN, OH, 44333)	9143	591074905	3/31/11	OXYCODONE HYDROCHLORIDE 5MG&ACETAMIN	5	2,500	Actavis Pharma, Inc.	N	27,800	x		x	x	x
8	PERRYSBURG, OH	██████	WALGREEN CO. DBA: WALGREENS # 03279 (1303 COPLEY ROAD, AKRON, OH, 44320)	9143	591074905	1/26/11	OXYCODONE HYDROCHLORIDE 5MG&ACETAMIN	5	3,000	Actavis Pharma, Inc.	N	27,700	x	x	x	x	x
9	PERRYSBURG, OH	██████	WALGREEN CO. DBA: WALGREENS # 03279 (1303 COPLEY ROAD, AKRON, OH, 44320)	9143	591074905	12/21/12	OXYCODONE HYDROCHLORIDE 5MG&ACETAMIN	5	10,000	Actavis Pharma, Inc.	N	27,100	x	x	x	x	x
10	PERRYSBURG, OH	██████	WALGREEN CO. DBA: WALGREENS # 04776 (900 WOOSTER RD NORTH, BARBERTON, OH, 44203)	9143	591074905	11/16/09	OXYCODONE HYDROCHLORIDE 5MG&ACETAMIN	5	2,500	Actavis Pharma, Inc.	N	26,400	x	x	x	x	x

## I. Henry Schein

### Background

Henry Schein, Inc., (“Henry Schein”) like the other Distributor Defendants in this case, is a registered wholesale distributor of controlled substances. However, unlike the other Distributor Defendants, Henry Schein is unique in that it is the “largest distributor of healthcare products and services to office-based practitioners in the combined North American and European markets” whose customers include “dental practices . . . physician practices, and animal health clinics.”<sup>1</sup>

In 2015, Henry Schein reported that its sales reached a record \$10.4 billion and that it had grown at a compound annual rate of approximately 16 percent since becoming a public company in 1995. Overall, it is the world’s largest provider of health care products and services to office-based dental, animal health, and medical practitioners.

## II. Orders Plaintiff Summit County Contends Were Suspicious:

Plaintiff Summit County identifies the following 14 orders that Henry Schein shipped to Dr. Brian Heim (“Heim”) as orders that Henry Schein knew or should have known were Suspicious Orders:

	DATE	MEDICATION	MANUFAC-TURER	AMOUNT	NAME OF PERSON SHIPPED TO	LOCATION OF PERSON SHIPPED TO
1	8/17/2011	Hydrocodone/ Apap Tablets	Unknown	1 bottle – 500 tablets	Dr. Brian Heim	3562 Ridge Park Drive, Ste. A, Akron, OH
2	9/19/2011	Hydrocodone/ Apap Tablets	Unknown	1 bottle – 500 tablets	Dr. Brian Heim	3562 Ridge Park Drive, Ste. A, Akron, OH
3	10/10/2011	Hydrocodone/ Apap Tablets	Unknown	1 bottle - 500 tablets	Dr. Brian Heim	3562 Ridge Park Drive, Ste. A, Akron, OH
4	10/24/2011	Hydrocodone/ Apap Tablets	Unknown	1 bottle – 500 tablets	Dr. Brian Heim	3562 Ridge Park Drive, Ste. A, Akron, OH
5	11/11/2011	Hydrocodone/ Apap Tablets	Unknown	2 bottles - 1000 tablets	Dr. Brian Heim	3562 Ridge Park Drive, Ste. A, Akron, OH
6	12/05/2011	Hydrocodone/ Apap Tablets	Unknown	2 bottles – 1000 tablets	Dr. Brian Heim	3562 Ridge Park Drive,

<sup>1</sup> See, HSI-MDL-00040712.

	DATE	MEDICATION	MANUFACTURER	AMOUNT	NAME OF PERSON SHIPPED TO	LOCATION OF PERSON SHIPPED TO
						Ste. A, Akron, OH
7	01/10/2012	Hydrocodone/ Apap Tablets	Unknown	2 bottles – 1000 tablets	Dr. Brian Heim	3562 Ridge Park Drive, Ste. A, Akron, OH
8	02/06/2012	Hydrocodone/ Apap Tablets	Unknown	2 bottles – 1000 tablets	Dr. Brian Heim	3562 Ridge Park Drive, Ste. A, Akron, OH
9	02/29/2012	Hydrocodone/ Apap Tablets	Unknown	2 bottles – 1000 tablets	Dr. Brian Heim	3562 Ridge Park Drive, Ste. A, Akron, OH
10	02/29/2012	Hydrocodone/ Apap Tablets	Unknown	2 bottles – 1000 tablets	Dr. Brian Heim	3562 Ridge Park Drive, Ste. A, Akron, OH
11	03/14/2012	Hydrocodone w/Apap Tablet	Unknown	1 bottle – 500 tablets	Dr. Brian Heim	3562 Ridge Park Drive, Ste. A, Akron, OH
12	04/24/2012	Hydrocodone w/Apap Tablet	Unknown	2 bottles – 1000 tablets	Dr. Brian Heim	3562 Ridge Park Drive, Ste. A, Akron, OH
13	05/21/2012	Hydrocodone w/Apap Tablet	Unknown	2 bottles – 1000 tablets	Dr. Brian Heim	3562 Ridge Park Drive, Ste. A, Akron, OH
14	06/05/2012	Hydrocodone w/Apap Tablet	Unknown	2 bottles – 1000 tablets	Dr. Brian Heim	3562 Ridge Park Drive, Ste. A, Akron, OH

### III. Criteria Plaintiff Used to Identify the Above Orders As Suspicious

#### A. Henry Schein had a Duty to Identify When an Order is Likely to Be Diverted by Performing the Due Diligence Required of all Distributors.

The Controlled Substances Act (“CSA”) and its implementing regulations, as well as Ohio common law require distributors of controlled substances to register with the Drug Enforcement Administration (“DEA”). As registrants, distributors play a vital role in preventing diversion and therefore have a duty to perform due diligence prior to their distribution of controlled substances.

For example, pursuant to the CSA, distributors have a duty to report suspicious orders of controlled substances. An order is suspicious when it is likely to be diverted or has the potential for diversion from legitimate channels. Title 21 CFR 1301.74(b), specifically requires that a registrant “design and operate a system to disclose to the registrant suspicious orders of controlled substances.” Registrants must conduct an independent analysis of suspicious orders prior to completing a sale to determine whether the controlled substances are likely to be diverted from legitimate channels. Moreover, “[r]egistrants that fill these orders (potential suspicious orders), without first determining that the order is not being diverted into other than legitimate medical, scientific, and industrial channels, may be failing to maintain effective controls against diversion. Failure to maintain effective controls against diversion is inconsistent with the public interest as that term is used in 21 USC 823 and 824, and may result in the revocation of the registrant’s DEA Certificate or Registration.”<sup>2</sup>

In order to prevent diversion, distributors must have specific due diligence requirements and must “Know Their Customer” prior to shipping controlled substances to a particular client. In April 2011, the DEA further outlined the “Know Your Customer” requirements for distributors by expressly outlining the kinds of questions a distributor should ask customers seeking to purchase controlled substances.<sup>3</sup> For practitioner customers – which make up the majority of Henry Schein’s customer base – the DEA specifically identified the following questions:

- What is the practitioner’s specialty, if any (family practice, oncology, geriatrics, pain management, etc.)?
- Do the controlled substances being ordered correspond to his specialty or the treatment he provides?
- What method of payment does the practitioner accept (cash, insurance, Medicare) and what is the ratio of each?
- Has the practitioner ever been disciplined by any state or federal authority?
- How many patients does the practitioner see each day? What is his weekly average?
- Does the practitioner prescribe as well as dispense?
- Why does the practitioner prefer to dispense as opposed to prescribe?
- Who was the practitioner’s previous supplier? Are they still ordering from this supplier? If not, why are they looking for a new supplier?
- Do the hours of operation and the facility accommodate the type of practice being conducted?
- Does the practitioner’s office have security guards on-site? If so, why?
- Are all applicable state, federal, local licenses current and are they issued for the registered address at which the practitioner is practicing?
- Does the practitioner see out of state patients? If so,
  - o From what states,
  - o How many,

---

<sup>2</sup> *Id.*

<sup>3</sup> DEA, “Suggested Questions a Distributor should ask prior to shipping controlled substances,” *available at* [https://www.deadiversion.usdoj.gov/mtgs/pharm\\_industry/14th\\_pharm/levinl\\_ques.pdf](https://www.deadiversion.usdoj.gov/mtgs/pharm_industry/14th_pharm/levinl_ques.pdf) (April 2011).

- o Approximate ratio of out of state compared to local, and
- o Why, specifically, they travel so far to see him?
- Can the practitioner provide a blank copy of an agreement which they enter into with a patient, specifying the course of treatment, the patient rights and responsibilities, and reasons for termination of treatment?
- Does the practitioner conduct random unannounced drug testing?
- What measures does the practitioner employ and/or monitor to prevent addiction and diversion of controlled substances?
- Are there more than one practitioner dispensing controlled substances from the registered location?
- Do you order for just yourself or for the whole clinic?
- What controlled substances are you currently dispensing? (If only one or two controlled substances are being ordered, have the practitioner fully explain why he administers or dispenses only these specific controlled substances).
- In what dosage levels is the practitioner dispensing (2 tablets, 4 times a day, for 30 days, or 90, 120, 240 a week, month).
- Does the practitioner prescribe as well as dispense to his patients?
- Does the practitioner prescribe the same controlled substances as were dispensed to the patient?
- How many patients is the practitioner presently treating (day, week, and month)?

B. Henry Schein Failed to Exercise Due Diligence in its Evaluation of Dr. Brian Heim as a Customer.

Notwithstanding its obligations and the DEA's express guidance, Henry Schein failed to exercise sufficient due diligence before shipping the orders noted above. To the contrary, documents produced by Henry Schein show that, prior to shipping controlled substances to Heim, Henry Schein merely confirmed that Heim's licensure was in active status and sent Heim a one-page questionnaire on August 17, 2011.<sup>4</sup>

C. Heim's Orders Were So Suspicious that Henry Schein Knew or Should Have Known that they were being Diverted

Had Henry Schein performed any of the due diligence it was required to perform by law, it would have readily identified orders placed by Brian Heim as being suspicious. For example, Henry Schein never made any inquiry about Heim's prior criminal charges or disciplinary actions. Yet, a simple verification of Heim's Ohio medical license would have shown that in 1998, Heim entered a guilty plea to twenty-four felony counts of theft of drugs and twenty-one felony counts of illegal processing of drug documents.<sup>5</sup> As a result, Heim's medical license was revoked. He

---

<sup>4</sup> See, HSI-MDL-00001198-1210. On August 23, 2012 – after it had already been providing Brian Heim with controlled substances for nearly a year – Henry Schein sent Brian Heim an additional two-page questionnaire.

<sup>5</sup> Such a verification can be easily performed through [https://elicense.ohio.gov/oh\\_verifylicense](https://elicense.ohio.gov/oh_verifylicense).

was offered treatment in lieu of conviction. Heim's medical license was not reinstated until later with restrictions, and he was placed on probation until January of 2005.

On May 18, 2012, Heim was indicted in the Court of Common Pleas, County of Summit, Ohio, for seven counts of aggravated trafficking in drugs and one count of tampering with evidence. He was arraigned on those charges on June 6, 2012.<sup>6</sup> Significantly, Henry Schein actually shipped controlled substances to Heim on at least two occasions after he had been indicted in Ohio state court with trafficking in drugs and tampering with evidence.<sup>7</sup>

In addition to failing to ask about Heim's prior disciplinary and criminal record, Henry Schein also failed to ask other fundamental questions that would have alerted Henry Schein to the likelihood of diversion. For example, Henry Schein did not ask Heim about the percentage of controlled substances that Dr. Heim's patients purchased with cash versus other methods (although it did ask the question in general). The red flags relating to Heim's purchase of controlled substances were so clear that, in as early as 2008, a patient calling Purdue Pharma referenced Heim's suspicious practices and noted his prior disciplinary record.<sup>8</sup> From January 2010 through December 2011, Heim was actually listed as the **11th top prescriber of Oxycodone/APAP in the W103 – Akron, OH Territory**.<sup>9</sup> Despite this, Henry Schein's due diligence file for Brian Heim does not reflect a single site visit to Heim's office.

Finally, filings in the action to recover civil penalties from Heim for his violations of federal drug laws note that the volume of Heim's purchases was so suspicious that in July 2012, a DEA Diversion Investigator reviewing ARCOS data noted that Heim was "purchasing extraordinarily large amounts of hydrocodone/APAP tablets from the pharmaceutical wholesaler Henry Schein" and obtained an administrative warrant to inspect Heim's records because of this.<sup>10</sup>

Yet, even though Henry Schein suspended Heim's orders on two occasions, it never reported any of Heim's orders as suspicious to the DEA. In fact, even on the two occasions when Henry Schein held an order placed by Heim, Schein's records indicate that it nevertheless shipped an order to Heim on the following day.

In sum, given Heim's past criminal and disciplinary history, his reputation in the community, his current criminal charges, and his excessive orders of controlled substances, the orders referenced above were so suspicious that there was no amount of due diligence that Henry Schein could have performed so as to remove every basis of suspicion that Heim was engaged in diversion. The above is a clear example of Henry Schein's failure in due diligence for "onboarding" new customers.

---

<sup>6</sup> See, *United States v. Brian D. Heim, M.D.*, Case No 5:13-cv-210, Memorandum Opinion and Order of January 22, 2014 (District Judge Sara Lioi), at 4 ("Judge Lioi Order"); also see, May 8, 2013 Letter with Attachments to Dr. Brian Heim from the State Medical Board of Ohio, at Exhibit 1.

<sup>7</sup> See, Order No. 13 (05/21/2012) and Order No. 14 (06/05/2012) identified above.

<sup>8</sup> See, PPLPMDL0030005508 (April 17, 2008 email from Purdue's Nancy Crudele, Senior Manager of Medical Services, to Purdue's Joan Zooper, Corporate Counsel, summarizing a patient call regarding Dr. Brian Heim).

<sup>9</sup> See, ACTAVIS0925276.

<sup>10</sup> See, Judge Lioi Order, at 5.

# **Exhibit H**

CONFIDENTIAL

**Expert Report of Professor David Cutler**

**March 25, 2019**



maintain effective controls over the distribution of prescription opioids, and who instead have actively sought to evade such controls . . . thereby exacerbating the oversupply of such drugs and fueling an illegal secondary market.”<sup>5</sup> I refer to these actions collectively as “defendants’ misconduct.” I also refer to the adverse health, public health, public welfare and criminal justice consequences of the opioid epidemic as “harms.”

8. An analysis of damages incurred by the Bellwether jurisdictions due to defendants’ misconduct requires an evaluation of the impact of prescription opioid shipments on harms that impose costs on Bellwether jurisdictions. As part of this analysis I also review how shipments of prescription opioids ultimately resulted in harms stemming from illicit opioids. The costs imposed on the Bellwethers from these harms are addressed in the Expert Report of Prof. Thomas McGuire (the “McGuire Report”).<sup>6</sup> To be clear, for purposes of this report, the impact of prescription opioid shipments on harms to the Bellwethers includes all of defendants’ misconduct I described above, including all defendants who used or endorsed deceptive marketing strategies and all defendants who failed to maintain effective controls over the distribution of prescription opioids.

9. My analysis yields annual estimates of the share of various harms imposed on selected departments in each Bellwether government (“Bellwether divisions”) that is attributable to

---

<sup>5</sup> Cuyahoga Complaint, ¶14, Summit Complaint, ¶14.

<sup>6</sup> Because aspects of analyses presented in the report are related to analysis included in the Expert Report of Professor Jonathan Gruber (“Gruber Report”), the Expert Report of Professor Meredith Rosenthal (“Rosenthal Report”) and the Expert Report of Professor Thomas McGuire (“McGuire Report”), the following numbering convention is adopted to identify tables, appendices and back up materials from each report: Materials related to this report are identified with the prefix III (e.g., Table III.1); materials related to the Gruber Report use the prefix I; materials related to the Rosenthal Report use the prefix II; and materials related to the McGuire report use the prefix IV.

defendants' misconduct. The analysis incorporates two alternative estimates of the share of prescription opioid shipments that are attributable to misleading marketing, which are set forth in the Expert Report of Prof. Meredith Rosenthal (the "Rosenthal Report").<sup>7</sup> An alternative version of my analysis reported in Appendix III.J to this report incorporates an estimate of the share of prescription opioids that should have been identified as suspicious by distributors.<sup>8</sup>

10. My assignment in this report thus is to evaluate the following issues identified by counsel and to answer the following questions framed by counsel:

*What was the effect of prescription opioid shipments on harms that resulted in county costs?*

- 1) *For each administrative division for which one or more of the Bellwether governments seeks recovery, did the increase of prescription opioid shipments since 1995 contribute to harms that result in costs faced by the relevant divisions?*
- 2) *What is the size of these effects? For each administrative division, calculate the percentage of harm attributable to prescription opioid shipments in each year 2006-2018 for each of the Bellwether governments.*
- 3) *For each administrative division for which either Bellwether government seeks recovery, what is the percentage of harm attributable to prescription opioid shipments for which defendants are responsible in each year 2006-2018 for each Bellwether government?*
- 4) *Provide the economic rationale for your estimates.*

---

<sup>7</sup> Prof. Rosenthal presents estimates of the share of prescription opioid shipments due to defendants' misconduct using (1) a direct shipments regression method; and (2) an indirect shipments regression method. Section VI of this report incorporates the estimates from the direct regression method. Appendix III.K presents an analysis of the percent of harms due to defendants' misconduct based on the indirect regression method.

<sup>8</sup> I understand certain expert reports related to distributor misconduct are not being disclosed until April 15, 2019. Appendix III.J contains inputs that will also be set forth in reports that will be disclosed that day. As set forth above, I reserve the right to modify this analysis based on filed version of those reports.

11. With respect to the questions posed by counsel, I reach the following conclusions:

- 1) The increase in prescription opioid shipments since 1995 has contributed to harms that the relevant divisions of the Bellwether governments provide services to address;
- 2) The percentage of harms attributable to prescription opioid shipments can be economically estimated;
- 3) My analysis of the percentage of harms attributable to prescription opioid shipments, together with analysis of the percentage of prescription opioid shipments that are due to the defendants' misconduct reported in the Rosenthal Report, yields annual estimates of the percentage of harms due to defendants' misconduct for each Bellwether division affected by the opioid crisis;
- 4) My analysis of the percentage of costs attributable to prescription opioid shipments is confirmed by a supplementary analysis of the direct effect of prescription opioid shipments on crime;
- 5) My methodology for computing annual estimates of the percentage of harms due to the defendants' misconduct would not be modified if the inputs are varied, so that if different percentages are assigned to the shipments attributable to the defendants' misconduct, the methodology can still be applied in estimating damages based on the modified calculations.

12. In preparing this report, I and staff under my direction: analyzed data; reviewed economic literature, court filings, documents produced in this litigation, and deposition testimony. A list of materials that I have considered is attached as **Appendix III.B**. The analytical and econometric methods used in this report reflect commonly established principles and techniques used in the field of health economics. Detailed discussions of each of these methods, the mechanics of the empirical estimation, their applicability, and usage in the academic literature can be found in Sections III through V below.

13. Health economics is a well-recognized subfield of economics which provides an appropriate framework for analyzing the sources and impact of the opioid crisis. There are